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Executive Orders

EXECUTIVE ORDER JBE 17-20

Licensed Bed Capacity for Nursing Homes

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency was declared through Proclamation Number 104 JBE 2017;

WHEREAS, Hurricane Harvey made landfall multiple times on the Texas coast and Louisiana coasts between August 25, 2017 and August 30, 2017, bringing historic flooding, damage, and devastation to Texas and southwest Louisiana;

WHEREAS, this storm and its damage continue to pose a threat to citizens and communities across the Gulf Coast and creates conditions which place lives and property in the State in jeopardy;

WHEREAS, the state of Louisiana desires to promote and protect the health, safety, and well-being of all Louisiana residents, and specifically those residents in nursing facilities;

WHEREAS, the state of Louisiana desires to promote and protect the health, safety, and well-being of evacuees from Hurricane Harvey, and specifically those evacuees needing nursing facility services;

WHEREAS, the state of Louisiana desires to ensure the protection of such residents and evacuees in nursing facilities in times of declared emergencies;

WHEREAS, Louisiana Revised Statute 40:2116(D)(2) prohibits the Department of Health from approving additional beds in nursing facilities;

WHEREAS, the state of Louisiana desires that residents and evacuees in nursing facilities be able to temporarily evacuate to safe sheltering locations during an emergency;

WHEREAS, the state of Louisiana, recognizing the potential significance of Hurricane Harvey, desires to minimize the impact of the tropical storm/hurricane on the residents of nursing facilities; and

WHEREAS, Louisiana Revised Statute 29:724 authorizes the governor during a declared state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.

NOW THEREFORE I, JOHN BEL EDWARDS, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Secretary of the Department of Health may establish such protocols, policies, and procedures as to allow a licensed nursing facility which accepts or receives evacuated residents to temporarily exceed its licensed bed capacity in the event of a declared emergency.

SECTION 2: The Secretary of the Department of Health may establish such protocols, policies, and procedures without strict compliance with the requirements and provisions of the Administrative Procedure Act.

SECTION 3: This Order is effective upon signature and shall be applicable from August 24, 2017, until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of August, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1709#014

EXECUTIVE ORDER JBE 17-21

Emergency Suspension of Certain Unemployment Insurance Laws

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.*, a state of emergency was declared through Proclamation Number 104 JBE 2017;

WHEREAS, the State of Louisiana has suffered severe flooding and damage to the state which threatens the safety, health, and security of the citizens of the State of Louisiana, along with private property and public facilities;

WHEREAS, the flooding resulting from this event has displaced thousands of workers and employers from their homes and places of business;

WHEREAS, in addition to the displaced individuals, the flooding has caused numerous communication challenges due to the interruption of mail service, phone service and electricity;

WHEREAS, the evacuations, displacements, communication issues, the inability of employers to access personnel files, and the extraordinary volume of resulting unemployment claims all pose serious challenges to the effective and timely administration of the unemployment compensation system;

WHEREAS, Louisiana Revised Statute 29:724 authorizes the governor to use emergency powers to deal with emergencies and disasters and to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the State of Louisiana, including the authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any

statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, the executive director of the Louisiana Workforce Commission has requested the Governor, due to the extreme volume of claims to be processed, suspend La. R.S. 23:1533, 1600(2) and (3), and 1601(1), (2) and (7)(a), (b) and (d) for disaster-related claims, so as to allow the timely and fair administration of the unemployment insurance program.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: For the purpose of this executive order, "disaster-related claims" shall mean claims for unemployment compensation filed by persons whose unemployment is directly due to the effects of flooding or due to their inability to get to their job or worksite because they cannot travel through a disaster parish, as determined by the administrator of the state's unemployment compensation program, i.e., the executive director of the Louisiana Workforce Commission. Disaster-related claims will not necessarily include all claims in all parishes included in the flooding disaster proclamations, declarations or orders.

SECTION 2: The following statutes relative to unemployment insurance are hereby suspended to the extent and in the manner described below:

A. Louisiana Revised Statutes 23:1533, which provides for claimants' benefits to be charged against base period employers for purposes of employers' tax experience rating and the protesting of such charges by employers, shall be suspended for disaster-related claims made during the effective period of this Order.

B. Louisiana Revised Statutes 23:1600(2) and (3) shall be suspended while this Order is in effect for disaster-related claims to the extent that they require claimants to register and search for work, but the requirements in R.S. 23:1600(2) that claimants continue to report at an employment office in the manner prescribed by the administrator, and in R.S. 23:1600(3) that claimants be able to work and be available for work, are not waived. The requirement to continue to report at an employment office, which is accomplished through either an automated telephone system or the Internet, is not impractical and avoids overpayments, which claimants would be liable to repay. In the immediate aftermath of the flooding, waived requirements are not practical for claimants without fixed temporary or permanent housing and verification of such activities is not practical in many areas affected by the flooding.

C. Louisiana Revised Statutes 23:1601(1), (2) and (7)(a), (b) and (d), which provide certain disqualifications for otherwise eligible claimants, shall be suspended for disaster-related claims beginning while this Order is in effect. Persons having disaster-related claims were not discharged from their employment nor did they quit or leave their employment as contemplated by R.S. 23:1601(1) and (2), and the case-by-case adjudication of these issues would be an unproductive and unnecessary use of agency resources that should be devoted to processing the extraordinary high

volume of disaster-related claims that will be filed. Calculation of the waived §1601(7) offsets from unemployment benefits would unduly delay payment, given the volume of claims and the volume of employers and claimants without access to the pertinent records. Regardless of the waiver of R.S. 23:1601(7), the requirement in R.S. 23:1600, that a claimant be "unemployed" as defined in R.S. 23:1472(19), is not waived. Persons who are paid by their employers, but who performed no services for the week(s) paid, are not unemployed and therefore are not eligible to receive unemployment benefits for any such week. Also, this waiver shall not affect the offset of wages from a claimant's weekly benefit amount pursuant to R.S. 23:1593.

SECTION 3: This Order is effective Thursday, August 31, 2017 and effective for the following parishes: Beauregard, Calcasieu, Cameron, Jefferson Davis, Vermillion, Acadia, Allen, Iberia, Natchitoches, Rapides, Sabine and Vernon, and shall continue through Saturday, September 30, 2017, unless amended, modified, terminated, or rescinded by the governor, or otherwise prior thereto.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of August, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1709#058

EXECUTIVE ORDER JBE 17-22

Emergency Temporary Suspension of Licensure
Requirements for Emergency Medical Technicians and
Medical Professionals and Personnel Licensed Out-of-State

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency was declared for the entire state through Proclamation Number 104 JBE 2017 due to the effects of Tropical Storm Harvey;

WHEREAS, pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760, *et seq.*, a state of public health emergency was declared to exist in the entire State of Louisiana by Proclamation Number 105 JBE 2017;

WHEREAS, Tropical Storm Harvey has caused significant flooding that is currently straining and is expected to continue straining medical infrastructure throughout the state;

WHEREAS, such flooding poses a threat to citizens and communities across Louisiana and creates conditions which place lives and property in a state of jeopardy;

WHEREAS, many citizens have suffered or will suffer injury and/or illness;

WHEREAS, there is a need to immediately supplement the number of licensed Emergency Medical Technicians, including the designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P), currently available to the State to

respond to this emergency in order to serve those who might be affected by it;

WHEREAS, Emergency Medical Technicians, including the designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basis (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P), licensed in states other than Louisiana are available to provide medical aid and assistance to those persons affected by this emergency;

WHEREAS, the number of medical professionals and personnel currently available to the State to respond to this emergency are insufficient and there is a need to immediately supplement their number in order to serve those affected by this disaster;

WHEREAS, Louisiana Revised Statute 29:724 authorizes the governor, during a declared state of emergency, to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, the Secretary of the Department of Health and the State Health Officer have requested that the Louisiana state statutes, laws, rules, and regulations related to licensing of Emergency Medical Technicians, including designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P), medical professionals and personnel be temporarily suspended for those such persons duly licensed to practice in other states who wish to provide their services in Louisiana to those persons needing medical services as a result of this emergency; and

WHEREAS, Louisiana Revised Statute 29:766 authorizes the Governor, during a declared state of public health emergency, to suspend the provisions of any regulatory statute prescribing procedures for the conducting of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.

NOW THEREFORE I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana state licensure laws, rules, and regulations regarding the licensure of Emergency Medical Technicians, including designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P) are hereby temporarily suspended for Emergency Medical Technicians duly licensed to practice in other states who wish to provide their services to those persons needing services as a result of or in connection with this declared emergency. An individual currently licensed and in good standing as an Emergency Medical

Technician, including designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P), in another state may practice in Louisiana, subject to the following conditions, qualifications, and parameters:

A. The individual must be duly licensed and in good standing in another state.

B. The individual must practice in good faith and within the scope of practice limitations set forth in La. R.S. 29:788.

C. The individual must cease practicing in Louisiana upon the termination or rescission of this Order or of the declared state of emergency cited herein, or any extension thereof.

SECTION 2: The Louisiana state licensure laws, rules, and regulations for medical professionals and personnel are hereby suspended for those medical professionals and personnel from other states or other countries offering medical services in Louisiana to those needing medical services as a result of or in connection with this disaster, provided that said out-of-state or out-of-country medical professionals and personnel possess a current medical license in good standing in their respective state or country of licensure, practice in good faith and within the scope of practice limitations set forth in La. R.S. 29:788, and cease practicing in Louisiana upon the termination or rescission of this Order or of the declared states of emergency cited herein, or any extensions thereof.

SECTION 3: All out-of-state Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), EMT-Paramedic (EMT-P), and all out-of-state or out-of-country medical professionals and personnel offering services in the state of Louisiana by authority of this Order shall submit to the State Health Officer, or his designee at the Office of Public Health within the Louisiana Department of Health, a copy of their respective license and photo identification. Such persons shall contact the Office of Public Health, Louisiana Volunteers in Action (LAVA) program (<https://www.lava.dhh.louisiana.gov/index.php>) at 225-354-3569, 225-354-3573 or dhhvol@la.gov.

SECTION 4: This Order is effective upon signature and shall apply retroactively from August 24, 2017, until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of August, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1709#059

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Advisory Commission on Pesticides

Certification of Commercial Applicators (LAC 7:XXIII.711)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the commissioner of agriculture and forestry declares an emergency to exist and adopts by emergency process the attached regulation requiring proficiency testing for all commercial applicators in 2017. R.S. 3:3203(A) provides that the “commissioner shall adopt such rules and regulations as are necessary to implement the provisions of this Chapter, including but not limited to rules and regulations governing the registration, distribution, sale, offering for sale, and application of pesticides...” Additionally, R.S. 3:3242 provides that the “commissioner by rule shall provide for the issuance of annual certification cards.” In order to be in compliance with state and federal laws regarding testing and licensure, the commissioner believes proficiency testing in 2017 is necessary to protect the health and safety of the public. This Emergency Rule was initially published at LR 43:9.

This Emergency Rule shall become effective September 1, 2017, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 7. Examinations, Certification and Licensing

Subchapter B. Certification

§711. Certification of Commercial Applicators

A. - E. ...

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

1. In order to renew a certification card that expires on December 31, 2017, a commercial applicator shall take and pass a proficiency test.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735

(June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:794 (May 2006), repromulgated LR 32:1011 (June 2006), amended LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 43:

Mike Strain, DVM
Commissioner

1709#009

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration; Obligations of the Licensee/Permittee (LAC 7:XXV.113 and 117)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the commissioner of agriculture and forestry and Louisiana Structural Pest Control Commission declare an emergency to exist and hereby adopt by emergency process the attached regulation requiring proficiency testing for all structural licensees and registered technicians and in 2017. R.S. 3:3366 grants the Structural Pest Control Commission the authority to adopt rules and regulations “to protect the interests, health, safety, and welfare of the public.” In order to be in compliance with state and federal laws regarding testing and licensure, the commissioner believes proficiency testing in 2017 is necessary to protect the health and safety of the public. This Emergency Rule was initially published at LR 43:9-10.

This Emergency Rule shall become effective September 1, 2017, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. - O. ...

P. Each registered technician shall participate in an entire continuing education program as a condition of maintaining his or her status as a registered technician at least once annually (July 1 to June 30).

1. Each continuing education program, minimum of four hours of technical training, shall be approved in advance by the department.

2. Each continuing education program shall be a minimum of one hour in length per phase.

3. Documentation of the technician attendance and participation shall be forwarded to the department and a copy retained at the technician's place of employment.

4. Each continuing education program offered in 2017 shall include a proficiency test which shall be taken and passed in order to maintain one's status as a registered technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, 3368 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 35:207 (February 2009), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 42:213 (February 2016), LR 43:

§117. Obligations of the Licensee\Permittee

A. - D. ...

E. Maintenance of a Commercial Applicator Certification by a Licensee

1. A licensee shall maintain his commercial applicator certification in current status by:

a. attending a continuing educational program for recertification approved by the department;

b. recertification at least once every three years; such recertification shall be completed by December 31 of the year preceding the third anniversary of either the original certification or the most recent recertification;

c. a minimum of six hours of technical training which shall include but not limited to the phases of general pest control, termite control and commercial vertebrate control;

d. a minimum of six hours of technical training for the phase of fumigation;

e. in order to renew a commercial certification card that expires on December 31, 2017, a licensee shall take and pass a proficiency test.

2. A licensee attending an approved recertification seminar shall attend the entire approved program; otherwise the licensee shall not be recertified at this approved seminar.

3. Time and location for each licensee recertification can be obtained by calling or writing to the department.

F. - Q.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 31:2761 (November 2005), LR

35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013), LR 42:214 (February 2016), LR 43:

Mike Strain, DVM
Commissioner

1709#010

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agro-Consumer Services Division of Weights and Measures

Suspension of Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends (LAC 7:XXXV.303)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:4608 and 4680, the commissioner of agriculture and forestry hereby declares an emergency to exist and adopts, by emergency process, the attached regulations for the suspension of rules governing the sale of gasoline with greater than 7.8 psi Reid vapor pressure ("RVP").

On August 24, 2017, Governor John Bel Edwards declared a state of emergency in Louisiana for purposes of preparing for (then Tropical Storm) Hurricane Harvey. Hurricane Harvey made landfall on the Texas coast on August 25, 2017, creating widespread flooding and structural damage. This hurricane caused, and continues to cause, major disruptions in the normal operations of refineries in the southern part of Texas, thus preventing said refineries from making their usual large contribution to the nation's oil and gas supply.

On August 28, 2017, the United States Environmental Protection Agency ("EPA") granted a request made by Governor Edwards to waive the federal regulations set forth in 40 C.F.R. 80.27(a)(2)(ii) requiring low volatility gasoline for the following 16 parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James and St. Mary. Under this waiver, the 7.8 psi RVP requirement for gasoline sold in the designated parishes for the remainder of the "high ozone" season ending September 15, 2017 is waived. The EPA has also temporarily waived the provisions of 40 C.F.R. 80.78(a)(7) that prohibit any person from combining any reformulated gasoline blendstock for oxygenate blending with any other gasoline, blendstock, or oxygenate unless certain conditions are met.

This Emergency Rule is necessary in order to ensure that state regulations regarding fuel specifications are in accord with the temporary waivers granted by the EPA. This Emergency Rule is necessary to minimize or prevent disruption of the gasoline supply in the 16 affected parishes. Failure to suspend the rules and regulations set forth in this Emergency Rule could result in imminent peril to the public health, safety, and welfare of the citizens of this state and to the entire Gulf Coast Region.

This Emergency Rule becomes effective August 29, 2017, and shall remain in effect until the termination of state of

emergency declared by the governor on August 24, 2017 or until 11:59 p.m. on September 14, 2017, whichever date occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products and Motor Fuels

Subchapter A. Standards

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. - A.8. ...

9. The ASTM D 4814, "Standard Specifications for Automotive Spark-Ignition Engine Fuel" seasonal volatility standards for the sale of greater than 7.8 psi RVP gasoline in non-attainment areas of the state of Louisiana are hereby suspended in the following 16 parishes until termination of the state of emergency declared by the governor on August 24, 2017 or until 11:59 p.m. on September 14, 2017, whichever date occurs first: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James and St. Mary.

10. The ASTM D 4814, "Standard Specifications for Automotive Spark-Ignition Engine Fuel" base gasoline and blending requirements are hereby suspended in the following 16 parishes until termination of the state of emergency declared by the governor on August 24, 2017 or until 11:59 p.m. on September 14, 2017, whichever date occurs first: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James and St. Mary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:29 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 43:

Mike Strain, DVM
Commissioner

1709#007

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agro-Consumer Services Division of Weights and Measures

Suspension of Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends (LAC 7:XXXV.303)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B), and under the authority of R.S. 3:4608 and 4680, the commissioner of agriculture and forestry declares an emergency to exist and adopts by emergency process the attached regulations for the suspension of rules governing the sale of gasoline with greater than 9.0 psi Reid vapor pressure (RVP).

On August 24, 2017, Governor John Bel Edwards declared a state of emergency in Louisiana for purposes of preparing for Hurricane Harvey. Hurricane Harvey made landfall in Texas on 08/25/2017 creating widespread flooding and damage which resulted in the closing of several Texas refineries and the loss of their contribution of the petroleum products to the nation's fuel supply.

On 8/29/2017, the Department of Agriculture and Forestry issued a waiver, by way of an Emergency Rule, suspending the 7.8 RVP requirements in certain parishes. On 08/30/17, Hurricane Harvey made a second landfall on the southwestern Louisiana coast further exacerbating the fuel supply problem. In spite of the issue of the prior waiver, difficulties still remain with gasoline availability in many areas of the state, particularly the areas in and around the southwestern quadrant of the state. While some amounts of low volatility gasoline remain throughout the fuel distribution system in varying quantities, the refinery shutdowns and slow pace of restarts have resulted in and will continue to cause a further decrease in an already inadequate supply of the overall volume of low volatility gasoline. The state faces great challenges providing an adequate supply of gasoline to support recovery efforts to those areas needing it most. The commissioner of agriculture is granting a temporary emergency waiver of the RVP requirements to allow the statewide production, distribution, and sell of conventional winter gasoline with an 11.5 psi RVP. Regulated parties should continue to sell or distribute gasoline meeting the 9.0 psi RVP and 7.8 psi RVP standards, as applicable, where such supplies are available. This waiver is effective immediately and will continue through 09/15/2017(termination date). After the termination date, gasoline that does not meet the RFG requirements for Louisiana (starting on 09/16/2017 at 12:01am) may not be introduced into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in Louisiana. However any gasoline meeting the conditions of this waiver that had already been placed in the terminal storage tanks for distribution to retail and wholesale purchasers-consumers before the expiration of this waiver may be distributed until the supply is depleted. Likewise retailers and wholesale purchaser-consumers in Louisiana may continue to sell or dispense gasoline that met the conditions of this waiver after 09/15/2016 until their supplies are depleted This waiver also will suspend the RFG requirement that prohibits any person from combining any RFG blendstock for oxygenate blending with any other gasoline, blendstock, or oxygenate, unless certain conditions are met. The intent of this Emergency Rule is to rescind and replace the Emergency Rule issued on August 29, 2017.

The Department of Agriculture and Forestry has adopted rules and regulations concerning the *ASTM International Standards* for gasoline Reid vapor pressure. A temporary suspension of these rules and regulations during the emergency is necessary to provide for an adequate supply of gasoline. Failure to suspend these rules and regulations creates an imminent peril to the public health, safety, and welfare of the citizens of this state.

This Emergency Rule is effective on August 30, 2017 and shall remain in effect through September 15, 2017.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products and Motor Fuels

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. - A.8. ...

9. The ASTM D 4814, "Standard Specifications for Automotive Spark-Ignition Engine Fuel" seasonal volatility standards for all parishes in the state of Louisiana are hereby suspended to immediately allow the statewide use of 11.5 psi RVP gasoline through 09/15/2017.

10. The ASTM D 4814, "Standard Specifications for Automotive Spark-Ignition Engine Fuel" Base gasoline and blending requirements are hereby suspended for all parishes in the state of Louisiana through 09/15/2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:29 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008), LR 43:

Brent Robbins, DVM
Deputy Commissioner/State Vet

1709#008

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of Agro-Consumer Services
Division of Weights and Measures**

Suspension of Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends (LAC 7:XXXV.303)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:4608 and 4680, the commissioner of agriculture and forestry declares an emergency to exist and adopts by emergency process the attached regulations for the suspension of rules governing the sale of gasoline with greater than 9.0 psi Reid vapor pressure (RVP) and a minimum temperature for a vapor-to-liquid ratio of 20 of 116 degrees Fahrenheit or 47 degrees centigrade (class 3).

On August 24, 2017, Governor John Bel Edwards declared a state of emergency in Louisiana for purposes of preparing for Hurricane Harvey. Hurricane Harvey made landfall in Texas on August 25, 2017 creating widespread flooding and damage which resulted in the closing of several Texas refineries and the loss of their contribution of the petroleum products to the nation's fuel supply.

On August 29, 2017, the department issued a waiver, by way of an Emergency Rule, suspending the 7.8 RVP requirements in certain parishes. On August 30, 2017, the commissioner of agriculture and forestry granted a second temporary emergency waiver of the RVP requirements to allow the statewide production, distribution, and sell of conventional winter gasoline with an 11.5 psi RVP through September 15, 2017. This waiver also suspended the RFG requirement that prohibits any person from combining any RFG blendstock for oxygenate blending with any other

gasoline, blendstock, or oxygenate, unless certain conditions are met. The intent of this Emergency Rule was to rescind and replace the Emergency Rule issued on August 29, 2017. After this second emergency waiver was issued, the EPA issued a third letter dated August 31, 2017 at the request of several other states that included some new language updating the previous waivers. Also, the refineries were concerned that no mention was made of the minimum temperature for a vapor-to-liquid ratio of 20 for the 11.5 RVP gasoline that was now allowed. The allowable minimum temperature for a vapor-to-liquid ratio of 20 is not determined by the EPA but by the state. After careful discussion and consideration, the commissioner of agriculture and forestry has decided to issue this Emergency Rule to address the minimum temperature requirements and RVP. The department has adopted rules and regulations concerning the *ASTM International Standards* for gasoline Reid vapor pressure and minimum temperature for a liquid-to-vapor ratio of 20. A temporary suspension of these rules and regulations during the emergency is necessary to provide for an adequate supply of gasoline. Failure to suspend these rules and regulations creates an imminent peril to the public health, safety, and welfare of the citizens of this state.

This Emergency Rule becomes effective September 1, 2017, and shall remain in effect through September 15, 2017. This Emergency Rule rescinds and replaces the Emergency Rule filed August 30, 2017.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products and Motor Fuels

Subchapter A. Standards

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. - A.8. ...

9. The ASTM D 4814, "Standard Specifications for Automotive Spark-Ignition Engine Fuel" seasonal volatility standards for all parishes in the state of Louisiana are hereby suspended to immediately allow the statewide production, sell, and distribution of conventional winter gasoline C [including gasoline blendstocks for oxygenate blending (BOBs)] with an RVP of 11.5 pounds per square inch before the addition of any ethanol and a minimum temperature for a vapor-to-liquid ratio of 20 of 116 degrees Fahrenheit or 47 degrees centigrade (class 3) through September 15, 2017.

10. The ASTM D 4814, "Standard Specifications for Automotive Spark-Ignition Engine Fuel" Base gasoline and blending requirements are hereby suspended for all parishes in the state of Louisiana through September 15, 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:29 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 43:

Mike Strain, DVM
Commissioner

1709#011

DECLARATION OF EMERGENCY

**Department of Children and Family Services
Child Welfare Division**

Physician Notification
(LAC 67:V.1135)

The Department of Children and Family Services (DCFS), Child Welfare, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:V.1135, Physician Notification. This Emergency Rule is adopted on September 6, 2017 and shall be effective on October 1, 2017. It shall remain in effect for a period of 120 days.

Pursuant to R.S. 40:1086.11 this Rule will implement the physician notification to the Department of Children and Family Services of a newborn exhibiting symptoms of withdrawal or other observable and harmful effects in his physical appearance or functioning, that the physician believes is due to the use of a controlled dangerous substance in a lawfully prescribed manner by the mother during pregnancy.

The department considers emergency action necessary to avoid sanctions from the United States Department of Health and Human Services, Administration for Children and Families by complying with the requirements of the Comprehensive Addiction and Recovery Act; and to implement R.S. 40:1086.11, physician notification.

Title 67

SOCIAL SERVICE

Part V. Child Welfare

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1135. Physician Notification

A. The Department of Children and Family Services establishes procedures for implementation of the physician notification, as required by R.S. 40:1086.11.

1. A physician identifying a newborn exhibiting symptoms of withdrawal or other observable and harmful effects in his physical appearance or functioning due to the use of a controlled dangerous substance, as defined by R.S. 40:961 et seq., in a lawfully prescribed manner by the mother during pregnancy shall use the DCFS form, Physician Notification of Substance Exposed Newborns; No Prenatal Neglect Suspected, to comply with the requirements of the Comprehensive Addiction and Recovery Act. The following form, which may be obtained from the DCFS website at www.dcfslouisiana.gov/, shall be used to notify DCFS.

Physician Notification of Substance Exposed Newborns

No Prenatal Neglect Suspected

LA DCFS: This notification does not constitute a report of child abuse and or neglect and shall be faxed to Centralized Intake at (225) 342-7768. If a newborn is exhibiting withdrawal symptoms that are believed to be the result of unlawful use of a controlled dangerous substance; or, if you suspect abuse and or neglect including suspicion of prenatal neglect, you must contact the CPS Hotline at 1-855-4LA-KIDS to make a report.

Newborn's Information
Last Name: _____ First Name: _____
Date of Birth: ___ / ___ / _____ Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female
Race: <input type="checkbox"/> White <input type="checkbox"/> African American <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Hispanic/Latino <input type="checkbox"/> Other
Substances Newborn was exposed to, if known: _____
Was there a Neonatal Abstinence Syndrome screening completed? <input type="checkbox"/> Yes <input type="checkbox"/> No
What are the results of the screening and/or withdrawal symptoms observed: _____

Mother's Information
Last Name: _____ First Name: _____
Date of Birth: ___ / ___ / _____
Race: <input type="checkbox"/> White <input type="checkbox"/> African American <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Hispanic/Latino <input type="checkbox"/> Other
Marital Status: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Other <input type="checkbox"/> Unknown
Address upon discharge: _____ City: _____ State: _____ Zip Code: _____
Parish: _____ Phone Number: _____
Provider Information
Name of Hospital: _____
Notification Date: ___ / ___ / _____
Address: _____ City: _____ State: _____ Zip Code: _____
Parish: _____ Phone Number: _____
Physician's Name: _____
Other Medical Staff who provided input for this notification: _____
Plan of Care
Mother reports receiving prenatal care: <input type="checkbox"/> Yes <input type="checkbox"/> No
Mother reports that the newborn has safe housing arrangements, including safe sleep for the newborn: <input type="checkbox"/> Yes <input type="checkbox"/> No
Mother reports she has the following newborn supplies: <input type="checkbox"/> Car Seat <input type="checkbox"/> Crib <input type="checkbox"/> Diapers <input type="checkbox"/> Formula/Nutrition <input type="checkbox"/> Other supplies (Specify) _____
Referral(s) Initiated: <input type="checkbox"/> Medical Care for Newborn <input type="checkbox"/> Medical Care for Mother <input type="checkbox"/> Early Steps <input type="checkbox"/> LACHIP <input type="checkbox"/> WIC <input type="checkbox"/> Substance Abuse Services/Treatment <input type="checkbox"/> Pediatric Specialist <input type="checkbox"/> Counseling <input type="checkbox"/> Housing Other information: _____
Educational materials provided: <input type="checkbox"/> Car Safety Seats <input type="checkbox"/> Shaken Baby Syndrome <input type="checkbox"/> Safe Sleep <input type="checkbox"/> Early Steps <input type="checkbox"/> Substance Abuse Treatment <input type="checkbox"/> Other Educational materials provided: (Specify) _____
Was additional discharge care instructions provided specifically addressing the newborn's exposure and/or withdrawal symptoms to prescribed medications: <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, describe</i> _____

2. The physician will complete the form with the following required information:

- a. identifying information about the newborn;
- b. substance to which the newborn was exposed;
- c. identifying information about the mother;
- d. identification of the physician who is providing the notification; and
- e. plan of care for newborn and mother including a listing of educational materials provided, referrals made,

additional discharge instructions, and information gained from the mother regarding care of the newborn.

3. The notifying physician shall transmit the form via fax to DCFS at (225) 342-7768.

B. DCFS shall monitor plans of care via the regional child welfare teams with multidisciplinary professionals to address the availability and delivery of the appropriate services for the newborn, affected caregiver and family.

C. DCFS shall maintain information on plans of care for the sole purpose of non-identifying data reporting as required by 42 USC 5106a(d). Information will be maintained for 24 months from the date of the notification to DCFS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1086.11, Physician Notification.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare Division, LR 43:

Marketa Garner Walters
Secretary

1709#029

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and
Development Fund Programs (LAC 28:CLXV.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement revisions to *Bulletin 139—Louisiana Child Care and Development Fund Programs: §903, Participation in LA Pathways*. This Declaration of Emergency, effective August 16, 2017, is for a period of 120 days from adoption, or until finally adopted as Rule. The proposed revisions relate to staff school readiness tax credit for 2018 and 2019. BESE has exercised the emergency provision in the adoption of these policy revisions in order to ensure that the policy will be implemented by January 1, 2018.

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 9. Louisiana Pathways Early Learning Center Career Development System (LA Pathways)

§903. Participation in LA Pathways

A. - B.8.e.i. ...

C. Requirements for the Administrator Track for LA Pathways beginning January 1, 2018

1. Director I

a. Training and education requirements:

i. CDA credential, early childhood ancillary certificate, or approved early childhood diploma; and

a.ii. - b.i. ...

2. Director II

a. Training and education requirements:

i. CDA credential, early childhood ancillary certificate, or approved early childhood diploma; and

a.ii. - b.i. ...

3. Director III

a. Training and education requirements:

i. ...

ii. early childhood ancillary certificate or approved early childhood diploma and administrator certificate;

C.3.iii. - D. 11.c.i. ...

E. Requirements for the Classroom Track for LA Pathways beginning January 1, 2018

1. - 3.a.iv. ...

4. Early Learning Center Teacher III

a. Training and education requirements:

i. - iii. ...

iv. related bachelor's degree with three college courses in early childhood or child development; or

v. classified as early learning center teacher I or above by LA Pathways as of December 31, 2017 and demonstrated evidence of eligibility for the staff school readiness tax credit for at least one prior year beginning with 2017.

5. Early Learning Center Teacher IV

a. Training and education requirements:

i. ...

ii. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers; or

iii. classified as early learning center teacher I or above by LA Pathways as of December 31, 2016; and demonstrated evidence of eligibility for the staff school readiness tax credit in 2017.

6. - 6.a.ii. ...

F. Requirements for the Classroom Track for LA Pathways beginning January 1, 2019

1. - 3.a.iv. ...

4. Early Learning Center Teacher III

a. Training and education requirements:

i. - iv. ...

v. early childhood ancillary certificate; and demonstrated evidence of eligibility for the staff school readiness tax credit for at least one prior year beginning with 2017.

5. Early Learning Center Teacher IV

a. Training and education requirements:

i. ...

ii. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers; or

iii. early childhood ancillary certificate; and demonstrated evidence of eligibility for the staff school readiness tax credit for at least two prior years beginning with 2017.

6. - 6.a.ii. ...

G. Qualification for the School Readiness Tax Credit for Early Learning Center Directors and Staff

1. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. Early Learning Center Director Levels

a. Directors who are classified as director I by LA Pathways are classified as meeting level I qualifications for purposes of this credit.

b. Directors who are classified as director II by LA Pathways are classified as meeting level II qualifications for purposes of this credit.

c. Directors who are classified as director III by LA Pathways are classified as meeting level III qualifications for purposes of this credit.

d. Directors who are classified as director IV by LA Pathways are classified as meeting level IV qualifications for purposes of this credit.

3. Early Learning Center Staff Levels

a. Staff members who are classified as early learning center teacher I by LA Pathways are classified as meeting level I requirements for purposes of this credit.

b. Staff members who are classified as early learning center teacher II by LA Pathways are classified as meeting level II requirements for purposes of this credit.

c. Staff members who are classified as early learning center teacher III by LA Pathways are classified as meeting level III requirements for purposes of this credit.

d. Staff members who are classified as early learning center teacher IV or early learning center master teacher by LA Pathways are classified as meeting level IV requirements for purposes of this credit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2119 (October 2015), amended LR 42:46 (January 2016), LR 43:

Gary L. Jones
President

1709#001

DECLARATION OF EMERGENCY

Board of Regents Office of Student Financial Assistance

Scholarship/Grant Programs—TOPS Core Curriculum Equivalents: Human Anatomy and Physiology and Pre-Calculus (LAC 28:IV.301, 505, 703, and 803)

The Louisiana Board of Regents is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:950 et seq.] to amend the rules of the scholarship/grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797(D)(2)].

This rulemaking adds AP psychology as an equivalent to social studies and adds Mandarin Chinese, Hindi, Portuguese, and Vietnamese as courses that may satisfy the foreign language requirement in the TOPS core curriculum. The rulemaking adds probability and statistics as an equivalent to math in the TOPS Tech core curriculum.

This Emergency Rule is necessary to implement changes to the scholarship/grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective August 23, 2017 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG18178E)

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Average Award Amount (TOPS-Tech)—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend a regionally-accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards which are made to students enrolled in the same types of programs in the 2016-2017 academic year (TOPS) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level by the total number of students that received the awards.

* * *

Weighted Average Award Amount—for those students with the TOPS Opportunity, Performance, and Honors Award attending a regionally-accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in an academic program, the total dollar value of awards made under TOPS in the 2016-2017 academic year, excluding award stipends, to students attending public colleges and universities that offer academic degrees at the baccalaureate level divided by the total number of students that received the awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228

(February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649, 658 (April 2015), LR 41:2595 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1880 (November 2016), LR 43:

Chapter 5 Applications, Federal Grant Aid, and ACT Test

§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates

A. - E. ...

F. Renewal FAFSA

1.a. Through the 2004-2005 academic year (TOPS), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by May 1 of each academic year (TOPS) after initial eligibility is established.

b. Beginning with the 2005-2006 academic year (TOPS), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by the July 1 immediately preceding each academic year (TOPS) after initial eligibility is established.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3. All recipients of Louisiana scholarship and grant programs other than TOPS and the Rockefeller Wildlife Scholarship Program must submit a renewal FAFSA for each academic year (TOPS) the student enrolls.

G. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 31:37 (January 2005), LR 32:2238 (December 2006), LR 33:83 (January 2007), LR 33:2357 (November 2007), LR 34:235 (February 2008), LR 37:588 (February 2011), LR 41:660 (April 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. - A.5.a.ii.(d).(iii). ...

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography
Algebra III; Advanced Math-Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A
Biology II	Human Anatomy and Physiology
Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics	AP Psychology
Foreign Language, both units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB	Mandarin Chinese I, II, III, IV Hindi I, II, III, IV Portuguese I, II, III, IV Vietnamese I, II, III, IV
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et seq., as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

A.5.a.ii.(f). - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III

(December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:657, 664 (April 2015), LR 41:2596, 2599 (Dec. 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1657 (October 2016), LR 42:1882 (November 2016), LR 43:518 (March 2017), LR 43:

Chapter 8. TOPS-Tech Award
§803. Establishing Eligibility

A. - A.6.a.v. ...

b.i. for students graduating in academic year (high school) 2008-2009 and after, for purposes of satisfying the requirements of §803.A.6.a above, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Business English	Senior Applications in English
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Math Essentials

ii. for students graduating in academic year (high school) 2018 and after, for purposes of for purposes of satisfying the requirements of §803.A.6.a above, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Business English	Senior Applications in English
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Math Essentials
Geometry, Algebra II, Math Essentials, Financial Literacy, Business Math, Algebra III, Advanced Math-Functions and Statistics, Advanced Math-Pre-Calculus, Pre-calculus, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the State Board of Elementary and Secondary Education. Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry, and Algebra II, and shall equal three mathematics credits	Probability and Statistics

A.6.c. - B.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR

36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:657, 664 (April 2015), LR 41:2596, 2599 (Dec. 2015), LR 42:48 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:

Robyn Rhea Lively
 Senior Attorney

1709#006

DECLARATION OF EMERGENCY
Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
 Children’s Specialty Hospitals
 Supplemental Payments for New Orleans Area Hospitals
 (LAC 50:V.969)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services’ disapproval of the state plan amendment for the financing of the transition of the management and operation of certain children's specialty hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted a supplemental payment methodology for inpatient hospital services rendered by children’s specialty hospitals in the New Orleans area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective October 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing supplemental payments for inpatient hospital services rendered by children’s specialty hospitals in the New Orleans area.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Medical Services

Subpart 1. Inpatient Hospital Services
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§969. Supplemental Payments to Children’s Specialty Hospitals in the New Orleans Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for inpatient hospital services rendered in a hospital in the New

Orleans area that meets the following qualifying criteria per the as filed cost report ending in state fiscal year 2014:

1. classified by Medicare as a specialty children's hospital;
2. has a least 100 full-time equivalent interns and residents;
3. has least 70 percent Medicaid inpatient days' utilization rate;
4. has at least 25,000 Medicaid inpatient days; and
5. has a distinct part psychiatric unit.

B. Supplemental payments for inpatient hospital services will be paid quarterly up to the hospital specific upper payment limit (the difference between Medicaid inpatient charges and Medicaid inpatient payments). The payments to the qualifying hospital(s) shall not exceed:

1. the annual Medicaid hospital specific inpatient charges per 42 CFR 447.271;
2. the annual aggregate inpatient hospital upper payment limit for the classification of hospitals per 42 CFR 442.272; and
3. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1709#038

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments for Baton Rouge Area Hospitals
(LAC 50:V.973)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.973 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the

Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in the Baton Rouge area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective October 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in the Baton Rouge area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§973. Supplemental Payments to Baton Rouge Area Hospitals

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for inpatient hospital services rendered in a hospital in the Baton Rouge area that meets the following qualifying criteria per the as filed cost report ending in state fiscal year 2014:

1. classified as a major teaching hospital;
2. has at least 3,000 Medicaid deliveries, as verified per the Medicaid data warehouse; and
3. has at least 45 percent Medicaid inpatient days utilization rate.

B. Supplemental payments for inpatient hospital services will be paid quarterly up to the hospital specific upper payment limit (the difference between Medicaid inpatient charges and Medicaid inpatient payments). The payments to the qualifying hospital(s) shall not exceed:

1. the annual Medicaid hospital specific inpatient charges per 42 CFR 447.271;
2. the annual aggregate inpatient hospital upper payment limit for the classification of hospitals per 42 CFR 442.272; and
3. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1709#039

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments for Monroe Area Hospitals
(LAC 50:V.971)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.971 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals (DHH), Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in LDH Administrative Region 8 in the Monroe area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated in order to continue the provisions of the February 12, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective October 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in the Monroe area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§971. Supplemental Payments to Monroe Area Hospitals

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for inpatient hospital services rendered by a hospital in the Monroe area that meets the following qualifying criteria:

1. inpatient acute hospital classified as a major teaching hospital;
2. located in LDH Administrative Region 8 (lowest per capita income of any region per the 2010 U.S. Census Bureau records); and
3. per the as filed fiscal year ending June 30, 2013 cost report has:
 - a. greater than 25 full-time equivalent interns and residents;
 - b. at least 40 percent Medicaid inpatient days utilization; and
 - c. a distinct part psychiatric unit.

B. Supplemental payments for inpatient hospital services will be paid quarterly up to the hospital specific upper payment limit (the difference between Medicaid inpatient charges and Medicaid inpatient payments). The payments to the qualifying hospital(s) shall not exceed:

1. the annual Medicaid hospital specific inpatient charges per 42 CFR 447.271;
2. the annual aggregate inpatient hospital upper payment limit for the classification of hospitals per 42 CFR 442.272; and
3. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1709#040

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

Intermediate Care Facilities for Persons with
Intellectual Disabilities—Public Facilities
Reimbursement Rate Increase (LAC 50:VII.32969)

The Department of Health, Bureau of Health Services Financing amends LAC 50:VII.32969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for public intermediate care facilities for persons with developmental disabilities (ICFs/DD), hereafter referred to as intermediate care facilities for persons with intellectual disabilities (ICFs/ID), to establish a transitional Medicaid reimbursement rate for community homes that are being privatized (*Louisiana Register*, Volume 39, Number 2). This Rule also adopted all of the provisions governing reimbursements to state-owned and operated facilities and quasi-public facilities in a codified format for inclusion in the *Louisiana Administrative Code*.

The department promulgated an Emergency Rule which amended the provisions governing the transitional rates for public facilities in order to redefine the period of transition (*Louisiana Register*, Volume 39, Number 10). The department subsequently promulgated an Emergency Rule to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing transitional rates for public facilities (*Louisiana Register*, Volume 40, Number 3). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to increase the add-on amount to the per diem rate for the provider fee (*Louisiana Register*, Volume 40, Number 3).

Due to an increase in the add-on amount to the per diem rate for the provider fee, the department promulgated an Emergency Rule which amended the provisions governing the transitional rates for public facilities in order to increase the Medicaid reimbursement rate (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2014 Emergency Rule. This action is being taken to protect the public health and welfare of Medicaid recipients transitioning from public ICFs/ID by ensuring continued provider participation in the Medicaid Program.

Effective September 24, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for public intermediate care facilities for persons with intellectual disabilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter C. Public Facilities

§32969. Transitional Rates for Public Facilities

A. - F.4. ...

G. Effective for dates of service on or after October 1, 2014, the transitional Medicaid reimbursement rate shall be increased by \$1.85 of the rate in effect on September 30, 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:326 (February 2013), amended LR 40:2588 (December 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1709#041

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

Outpatient Hospital Services
Children’s Specialty Hospitals
Supplemental Payments for
New Orleans Area Hospitals
(LAC 50:V.6121)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.6121 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services’ disapproval of the state plan amendment for the financing of the transition of the management and operation of certain children’s specialty hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an

Emergency Rule which adopted a supplemental payment methodology for outpatient hospital services rendered by children's specialty hospitals in the New Orleans area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective October 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing outpatient supplemental payments for outpatient hospital services rendered by children's specialty hospitals in the New Orleans area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6121. Supplemental Payments for Children's Specialty Hospitals in the New Orleans Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for outpatient hospital services rendered in a hospital in the New Orleans area that meets the following qualifying criteria per the as filed cost report in state fiscal year 2014:

1. classified by Medicare as a specialty children's hospital;
2. has at least 100 full-time equivalent interns and residents;
3. has at least 70 percent Medicaid inpatient days' utilization rate;
4. has at least 25,000 Medicaid inpatient days; and
5. has a distinct part psychiatric unit.

B. Supplemental payments for outpatient hospital services will be paid quarterly. The payments to the qualifying hospital(s) shall not exceed:

1. the aggregate outpatient hospital upper payment limits for the classification of hospitals pursuant to 42 CFR 447.321; and
2. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1709#042

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments for
Baton Rouge Area Hospitals
(LAC 50:V.6905)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing outpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in the Baton Rouge area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to outpatient hospital services through the maximization of federal dollars.

Effective October 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state hospitals in the Baton Rouge area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 69. Supplemental Payments

§6905. Non-Rural, Non-State Hospitals in the Baton Rouge Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for outpatient hospital services rendered in a hospital in the Baton Rouge area that meets the following qualifying

criteria per the as filed cost report ending state fiscal year 2014:

1. classified as a major teaching hospital;
2. has at least 3,000 Medicaid deliveries, as verified per the Medicaid data warehouse; and
3. has at least 45 percent Medicaid inpatient days utilization rate.

B. Supplemental payments for outpatient hospital services will be paid quarterly. The payments to the qualifying hospital(s) shall not exceed:

1. the aggregate outpatient hospital upper payment limits for the classification of hospitals pursuant to 42 CFR 447.321; and
2. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Service Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee, MD, MPH
Secretary

1709#043

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services Non-Rural, Non-State Hospitals Supplemental Payments for Monroe Area Hospitals (LAC 50:V.6903)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of

the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in LDH Administrative Region 8 in the Monroe area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to outpatient hospital services through the maximization of federal dollars.

Effective October 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing supplemental payments for outpatient hospital services rendered by non-rural, non-state hospitals in the Monroe area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 69. Supplemental Payments

§6903. Non-Rural, Non-State Hospitals in the Monroe Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for outpatient hospital services rendered by a hospital in the Monroe area that meets the following qualifying criteria:

1. inpatient acute hospital classified as a major teaching hospital;
2. located in LDH administrative region 8 (lowest per capita income of any region per the 2010 U.S. Census Bureau records); and
3. per the as filed fiscal year ending June 30, 2013 cost report has:

- a. greater than 25 full-time equivalent interns and residents;
- b. at least 40 percent Medicaid inpatient days utilization; and
- c. a distinct part psychiatric unit.

B. Supplemental payments for outpatient hospital services will be paid quarterly. The payments to the qualifying hospital(s) shall not exceed:

1. the aggregate outpatient hospital upper payment limits for the classification of hospitals pursuant to 42 CFR 447.321; and
2. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1709#044

DECLARATION OF EMERGENCY

Department of Health Office of Public Health

Burial or Cremation of Aborted Human Remains
(LAC 51:XXVI.102)

The state health officer, acting through the Louisiana Department of Health, Office of Public Health ("LDHOPH"), pursuant to the rulemaking authority granted by R.S. 40:4(A)(3), R.S. 40:4(A)(13) and R.S. 40:5(A)(14), hereby adopts the following Emergency Rule to require burial or cremation of remains resulting from an abortion as provided for under Act No. 593 of the 2016 Regular Session of the Louisiana Legislature. This Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and shall remain in effect for the maximum period allowed under the law or until adoption of a final Rule, whichever occurs first. This Emergency Rule is effective on the 20th day of August 2017.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XXVI. Burial, Transportation, Disinterment, or Other Disposition of Dead Human Bodies

Chapter 1. General Requirements

§102. Burial or Cremation of Aborted Human Remains

A. Each physician who performs or induces an abortion which does not result in a live birth shall insure that the remains of the child are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

B. The requirements of Subsection A of this Section shall not apply to abortions induced by the administration of medications when the evacuation of any human remains occurs at a later time and not in the presence of the inducing physician or at the facility in which the physician administered the inducing medications.

C. An abortion patient may by written consent authorize the physician performing the abortion to dispose of the human remains by burial or cremation, in accordance with the provisions of Part XXVII, Chapter 11, and Section 101.A.7 of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(3), R.S. 40:4(A)(13), and R.S. 40:5(A)(14).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

Rebekah E. Gee MD, MPH
Secretary
and
Jimmy Guidry, MD
State Health Officer

1709#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2017-18 Oyster Season—Public Areas

In accordance with the emergency provisions of the Administrative Procedure Act, Louisiana Revised Statutes (R.S.) 49:953, and under the authority of R.S. 56:433, R.S. 56:435.1, and R.S. 56:435.1.1 notice is hereby given that the Wildlife and Fisheries Commission, on September 7, 2017, hereby declares the 2017/2018 oyster season as follows:

The public oyster seed grounds and reservations, as described in R.S. 56:434, *Louisiana Administrative Code* (LAC) 76:VII:507, LAC 76:VII:509, LAC 76:VII.511, and LAC 76:VII.513, including east of the Mississippi River and north of the Mississippi River Gulf Outlet (Louisiana Department of Health and Hospital (DHH) shellfish harvest areas 1,2,3,4), Sister Lake, and the Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay public oyster seed grounds shall open at one-half hour before sunrise on Monday, November 13, 2017. The public oyster seed grounds east of the Mississippi River and north of the Mississippi River Gulf Outlet and the Sister Lake public oyster seed reservation shall close to the harvest of seed oysters for bedding purposes at one-half hour after sunset on Monday, November 13, 2017.

The American Bay area, as described in R.S. 56:433, shall be a sacking-only area restricted to oyster harvest for market sales only. The American Bay sacking-only area is that portion of the public grounds within Bay Long west of a line running generally north/south from a point at 29 degrees 31 minutes 13.78 seconds N latitude, 89 degrees 34 minutes 9.79 seconds W longitude to a point at 29 degrees 29 minutes 40.67 seconds N latitude, 89 degrees 34 minutes and 8.48 seconds W longitude. The American Bay sacking-only area shall open at one-half hour before sunrise on Monday, November 13, 2017.

The West Cove portion of the Calcasieu Lake public oyster area as described in R.S. 56:435.1.1 shall open one-half hour before sunrise on November 1, 2017.

These actions shall not supersede public health closures.

During the 2017/2018 open oyster season, the following provisions shall be in effect:

1. any vessel from which any person(s) takes or attempts to take oysters from the public oyster seed grounds and reservations described above shall:

a. be limited to a daily take and possession limit not to exceed 50 sacks of oysters per vessel, except for in the Sister Lake public oyster seed reservation where the limit shall not exceed 35 sacks per vessel, and except for in the

West Cove portion of Calcasieu Lake where the limit shall not exceed seven sacks per person per vessel per day. A sack of oysters for the purposes of this Declaration of Emergency shall be defined as the size described in R.S. 56:440. If sacks smaller than the size described in R.S. 56:440 are used, the daily harvest and possession limit shall be based on the number of sacks harvested. The daily take and possession limit shall not apply to vessels harvesting seed oysters for bedding purposes. The possession limit shall not apply to vessels operating under a valid oyster cargo vessel permit, and these vessels shall not harvest oysters;

b. be limited to either harvesting market oysters for direct sale (sacking) or harvesting seed oysters for bedding purposes on any one day and is specifically prohibited from doing both;

2. if any person on a vessel takes or attempts to take oysters from the public oyster seed grounds, reservations, or areas described above, all oysters contained on that vessel shall be deemed to have been taken from said seed ground, reservation, or area from the time harvest begins until all oysters are off-loaded dockside;

3. prior to leaving public seed grounds or reservations with oysters harvested from said seed ground or reservation for market purposes: all oysters must be sacked, the number of sacks shall be recorded in a log book, and each sack shall be properly tagged;

4. all vessels located in public seed grounds or reservations during those times between one-half hour after sunset and one-half hour before sunrise shall have all oyster scrapers unshackled;

5. in Calcasieu Lake, oyster scrapers are prohibited on vessels actively harvesting oysters.

The following areas shall remain closed for the entire 2017/2018 oyster season:

1. the area east of the Mississippi River as described in LAC 76:VII:511, south of the Mississippi River Gulf Outlet (DHH shellfish harvest areas 5,6,7,8), excluding the American Bay area defined above;

2. the Bay Gardene, Hackberry Bay, and Bay Junop public oyster public oyster seed reservations as described in R.S. 56:434;

3. the Little Lake public oyster seed grounds as described in LAC 76:VII:521;

4. the Barataria Bay, Deep Lake, Lake Chien, Lake Felicity, Lake Tambour, and Lake Mechant public oyster seed grounds as described in LAC 76:VII:517;

5. the east side of the Calcasieu Lake public oyster area;

6. the Sabine Lake public oyster area as described in R.S. 56:435.1.

The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to:

1. close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered; and

2. adjust daily take and/or possession limits as biological or enforcement data indicate a need; and

3. adjust sacking-only areas and/or restrict the taking of seed oysters as biological or enforcement data indicate a need; and

4. reopen an area previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Prior to any action, the secretary shall notify the chairman of the Wildlife and Fisheries Commission of his intention to make any or all of the changes indicated above.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Chad J. Courville
Chairman

1709#033

Rules

RULE

Department of Children and Family Services Licensing Section

Residential Homes—Type IV (LAC 67:V.Chapter 71)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:V, Subpart 8, Residential Licensing, Chapter 71, §§7107, 7109, 7111, and 7117.

The department considers amendment of §§7107, 7109, 7111, and 7117 necessary to revise the child residential licensing standards to correctly identify referenced regulations and Section numbers.

This action was made effective by an Emergency Rule dated and effective March 31, 2017.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 71. Residential Homes—Type IV

§7107. Licensing Requirements

A. - F.3.c. ...

d. All staff/children of residents'/resident's information shall be updated under the new ownership as required in LAC 67:V.7111.A.2.c, A.5, A.7, B.2, and B.4.b-g prior to or on the last day services are provided by the existing owner.

e. If all information in Paragraph F.3 of this Section is not received prior to or on the last day services are provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with Paragraph F.3 of this Section.

F.3.f. - L.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401 et seq., and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977, 984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:249 (February 2017), LR 43:1725 (September 2017).

§7109. Critical Violations/Fines

A. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the department may at its discretion elect to impose sanctions, revoke a license, or both:

1. §7107.A.5, §7111.A.2.c.ii, §7111.A.5.b, or §7111.B.2.a.ii—criminal background check;
2. §7107.A.6, §7111.A.2.c.iii, §7111.A.5.c, or §7111.B.2.a.x—state central registry disclosure;
3. §7111.A.9.a.i-v, vii, ix, or x—staffing ratios;

4. §7117.F.19—motor vehicle checks;
5. §7111.D.1.a or b—critical incident reporting; and/or

6. §7111.A.9.a.vi, §7111.A.9.a.xi, §7111.A.9.a.xiii-xv, §7111.A.4.c, §7123.B.5, or §7123.B.6—supervision.

B. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:258 (February 2017), amended LR 43:1725 (September 2017).

§7111. Provider Requirements

A. - A.5.b. ...

c. Contractors hired to perform work which involves contact with residents or children of residents, shall be required to have documentation of a state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of the individual receiving notice of a justified (valid) determination of child abuse or neglect. All requirements in §7111.B.2.a.x.(a)-(c) shall be followed.

6. - 7.b.xxiv. ...

xxv. use of specialized services identified in §7117.D.6.

7.c. - 8.a.xx. ...

xxi. use of specialized services identified in §7117.D.6; and

a.xxii. - c. ...

d. All direct care staff shall have documentation of current certification in adult CPR and first aid. Effective August 1, 2016, if residents or children of residents under the age of 10 are accepted into the program, then staff shall also obtain a certificate in infant/child CPR. No staff member shall be left unsupervised with residents or children of residents until he/she has completed all required training. Online-only training is not acceptable.

A.8.e. - J.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017), LR 43:1725 (September 2017).

§7117. Provider Services

A. - F.18. ...

19. A visual inspection of the vehicle is required to ensure that no child of a resident or resident under 10 years of age is left in the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. For field trips, staff shall inspect the vehicle and conduct a face-to-name count prior to leaving the facility for the destination, when destination is reached,

before departing destination for return to facility, and upon return to facility. For all other transportation, the staff shall inspect the vehicle at the completion of each trip prior to the staff person exiting the vehicle. The staff conducting the visual inspection when a child of a resident or resident under 10 years of age is transported shall document the time of the visual inspection and sign his or her full name, indicating that no child of a resident or resident under 10 years of age was left in the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:823 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:278 (February 2017), LR 43:1725 (September 2017).

Marketa Garner Walters
Secretary

1709#028

RULE

Department of Children and Family Services Child Welfare Division

Safe Haven Relinquishment (LAC 67:V.1505)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:V.1505, Safe Haven Relinquishment.

Pursuant to *Louisiana Children's Code* articles 1060 and 1061, the amendment is necessary to promulgate the official safe haven symbol for use in identifying designated emergency care facilities to the public and that DCFS will transmit the symbol electronically to any designated emergency care facility upon their request. Prevent Child Abuse Louisiana and DCFS will provide toll-free lines for the public to inquire about safe haven relinquishment. Parents who have relinquished a child may contact DCFS to inquire about their parental rights or provide medical information. The amendment also updates department titles.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 3. Child Protective Services

Chapter 15. Conducting Investigations in Families

§1505. Safe Haven Relinquishment

A. The DCFS establishes procedures for implementation of title XI, safe haven relinquishment, chapter 13, safe haven relinquishment, of the *Louisiana Children's Code*, as a collaborative effort with community agencies.

1. Prevent Child Abuse Louisiana and DCFS will provide toll-free lines for the public to inquire about safe haven relinquishment information, procedures and designated emergency care facilities. Parents who have relinquished an infant may contact the DCFS through the toll free hotline at 1-855-452-5437 or Prevent Child Abuse Louisiana at 1-800-244-5373 to inquire about their parental rights or anonymously provide medical information.

2. DCFS, the Department of Health, and community agencies will collaborate to identify facilities meeting the legal definition of a designated emergency care facility, develop and distribute the written notification to such facilities regarding the provisions of the statute, develop and distribute written information and training materials for facilities to use for the instruction of their staff designated to receive relinquished infants and interview parents, develop and distribute information materials to use to increase public awareness regarding safe haven relinquishment, and develop and distribute the notification to hospitals of the requirements of the medical evaluation and testing of a relinquished infant.

3. DCFS will work with community agencies to develop and distribute the card for designated emergency care facilities to give to relinquishing parents as required by article 1152.

4. The following image shall constitute the official safe haven symbol for use in identifying designated emergency care facilities to the public.



a. The text and image shall be black and the background either white or a shade of yellow typically used for traffic warning signs indicating the necessity of caution. The Department of Children and Family Services will transmit the symbol electronically to any designated emergency care facility upon their request.

B. The initial agency response to notification of a safe haven relinquishment will be within the DCFS Child Protective Services Program.

1. A report that an infant has been relinquished at a designated emergency care facility will be accepted as a report of a safe haven relinquishment and immediately assigned to a child welfare worker. The worker will respond to secure the safety of the infant and obtain immediate medical care if the infant is at a location other than a medical facility able to provide the infant with immediate medical care, unless medical care has already been secured by the emergency care facility.

2. The worker will contact the appropriate court with juvenile jurisdiction and request an instanter order placing the infant in the custody of DCFS as a child in need of care.

3. The worker will contact local law enforcement agencies to request their assistance to determine if the relinquished infant may have been reported missing. The agency will also contact the national registry for missing and exploited children to determine if the infant has been reported missing to that registry.

C. Any relinquishing or non-relinquishing parent of a safe haven infant contacting the DCFS will be asked to

voluntarily provide information as well as be informed of their rights as per article 1152.

D. Once the infant has received the required medical examination and testing and any other necessary medical care, and has been discharged from the medical facility providing emergency and/or other medical care, the DCFS will place the infant in the foster/adoptive home that can best provide for his needs. Efforts for the continuance of custody as a child in need of care and the procedure for a termination of parental rights will begin immediately and proceed in accordance with the provisions of titles VI, child in need of care, and XI, safe haven relinquishment. The infant will receive services through the DCFS foster care and adoption programs until the parental rights are terminated and an adoption is finalized or the mother and/or father establish parental rights.

AUTHORITY NOTE: Promulgated in accordance with Article 1149 et seq., of the *Louisiana Children's Code*, Title XI, Surrender of Parental Rights.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:2196 (September 2000), amended LR 26:2826 (December 2000), LR 30:1703 (August 2004), amended by the Department of Children and Family Services, Child Welfare Division, LR 43:1726 (September 2017).

Marketa Garner Walters
Secretary

1709#027

RULE

Board of Regents Office of Student Financial Assistance

Bylaws of the Louisiana Office of Student Financial Assistance Advisory Board (LAC 28:V.Chapters 1-2)

The Board of Regents has amended its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6). (SG17175R)

Title 28 EDUCATION

Part V. Student Financial Assistance—Higher

Education Loan Program

Chapter 1. Student Financial Assistance Commission

Bylaws

§101. Definitions and Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998), LR 26:1993 (September 2000), LR 33:435 (March 2007), LR 33:2608 (December 2007), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1727 (September 2017).

§103. Meetings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1263 (July 1998), amended LR 26:1993 (September 2000), LR 33: 435 (March 2007), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1727 (September 2017).

§105. Officers of the Commission and Executive Staff

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998), LR 33:2608 (December 2007), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1727 (September 2017).

§107. Order of Business

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), repromulgated LR 24:1264 (July 1998), amended LR 37:2986 (October 2011), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1727 (September 2017).

§109. Committees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:811 (September 1996), repromulgated LR 24:1264 (July 1998), amended LR 26:484 (March 2000), LR 27:35 (January 2001), LR 32:391 (March 2006), LR 37:2987 (October 2011), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1727 (September 2017).

§111. Communications to the Commission

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:812 (September 1996), repromulgated LR 24:1265 (July 1998), LR 37:2987 (October 2011), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1727 (September 2017).

§113. Rights Duties and Responsibilities of the Executive Staff of the Commission

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:812 (September 1996), amended LR 24:1265 (July 1998), LR 25:654 (April 1999), LR 25:1091 (June 1999), LR 27:1218 (August 2001), LR 33:2608 (December 2007), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1727 (September 2017).

§115. Responsibilities of Commission Members

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:813 (September 1996), repromulgated LR 24:1266 (July

1998), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1727 (September 2017).

§117. Amendment or Repeal of Bylaws

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:813 (September 1996), repromulgated LR 24:1266 (July 1998), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

§119. Rules and Regulations of Louisiana Student Financial Assistance Commission

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:813 (September 1996), repromulgated LR 24:1266 (July 1998), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

§121. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:813 (September 1996), repromulgated LR 24:1267 (July 1998), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

§123. Repealing Clause

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:813 (September 1996), repromulgated LR 24:1267 (July 1998), repealed by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

Chapter 2. Bylaws of the Louisiana Office of Student Financial Assistance (LOSFA) Advisory Board

Subchapter A. Purpose and Authority

§201. Purpose of the Advisory Board

A. The purpose of the advisory board shall be to consider those matters relating to the student financial assistance programs and Section 529 College Savings Plan of the state and to provide technical advice and recommendations to the Board of Regents through LOSFA staff on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

§203. Authority of the Advisory Board

A. The advice and recommendations of the advisory board are only advisory in nature and are not binding upon the Board of Regents, its members, or its officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:610 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

Subchapter B. Meetings

§211. Regular Meetings

A. The advisory board shall hold regular meetings, but no more than 12 per year. All regular meetings shall be held at the meeting place designated by the executive director of the Office of Student Financial Assistance (OSFA). Proxy voting shall be permitted provided that the proxy holder is an officer or employee of the organization represented by the appointed member and that a proxy does not represent the appointed member at more than two of the meetings scheduled annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

§213. Special Meetings

A. Special meetings of the advisory board may be called by the executive director of the Office of Student Financial Assistance at any time, provided the purposes of the meeting are specified, the members notified at least three calendar days before the time of the meeting, and sufficient members to form a quorum confirm their planned attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

§215. Compensation

A. Members of the advisory board shall be reimbursed for their travel expenses incurred in attending meetings in accordance with applicable state travel regulations if the organization represented by the appointed member does not reimburse them for their expenses and if otherwise allowed by law. No other compensation is authorized. Members may decline reimbursement for expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:610 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

§217. Quorum

A. Six voting members of the advisory board shall constitute a quorum for the transaction of business and a simple majority of the members present at any meeting voting for or against a particular item shall be the recommendation of the advisory board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

Subchapter C. Membership and Officers of the Advisory Board

§221. Membership

A. The advisory board shall be composed of 11 voting members as follows:

1. one member from each postsecondary education board to be appointed by the respective board;

2. one member appointed the Louisiana Association of Independent Colleges and Universities (LAICU);

3. one member appointed by the Louisiana Association of Private Colleges and Schools who will represent proprietary and cosmetology schools;

4. one member to be appointed by the Louisiana Association of Student Financial Aid Administrators;

5. one private/parochial high school counselor to be appointed by the Louisiana Student Counselor Association;

6. one public/charter high school counselor to be appointed by the Louisiana Student Counselor Association;

7. one member appointed by the Board of Elementary and Secondary Education (BESE) to be rotated with one member appointed by the Department of Education;

8. one student member to be appointed by the Council of Student Body Presidents, whose rotation shall be as follows:

- a. Louisiana State University System;
- b. Southern University System;
- c. University of Louisiana System;
- d. Louisiana Technical and Community College System.

B. Term

1.a. The term of voting members shall be for two years except when the organization represented by the appointed member provides for a shorter term, in which case, the member's term shall meet the requirements of the organization represented.

b. Members may serve consecutive terms.

2. Terms shall begin on October 1 of each year.

C. Notification of Membership

1. LOSFA will send a notice to the organizations represented on the advisory board no later than July 1 of the year during which terms begin requesting appointments for the upcoming term. The organization shall respond in sufficient time to allow LOSFA to confirm the appointee's willingness to serve prior to the beginning of the term on October 1.

2. The appointee must submit the confirmation of membership by September 1 of that same year.

D. Replacements

1. If an appointee declines to participate or does not submit a timely confirmation, LOSFA shall so notify the appropriate organization and request another person be appointed.

2. If a member is unable to complete his/her term for any reason, the organization represented by that member shall appoint a replacement who shall complete the rest of the term and shall be eligible for membership for the next two-year term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:1339 (July 2007), LR 34:610 (April 2008), LR 37:2598 (September 2011), LR 42:49 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1728 (September 2017).

§223. Chairman and Vice-Chairman

A. The chairman and vice chairman shall be selected annually by vote of the members of the advisory board from among the members of the advisory board. The chairman of the advisory board shall preside over all meetings, serve as

ex officio member of all subcommittees, if any, designate the duties of the vice-chairman, and appoint the membership of all subcommittees, if any. The vice-chairman shall perform the duties of the chairman in the chairman's absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:611 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1729 (September 2017).

§225. Executive Director of the Office of Student Financial Assistance (OSFA)

A. The executive director of the Office of Student Financial Assistance shall:

1. prepare the business agenda;
2. provide administrative support to the advisory board within the resources of his/her office allocated for that purpose;
3. approve the travel of advisory board members; and
4. in conjunction with the chairman, schedule meetings of the advisory board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1729 (September 2017).

Subchapter D. Business Rules

§231. Rules of Order

A. When not in conflict with any of the provisions of these bylaws, *Roberts' Rules of Order* shall constitute the rules of parliamentary procedure applicable to all meetings of the advisory board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1729 (September 2017).

§233. Order of Business

A. The order of business of regular meetings of the advisory board shall be as follows, unless the rules are suspended by a simple majority vote of the quorum present:

1. call to order;
2. roll call;
3. introductions and announcements;
4. corrections and approval of minutes of the preceding regular meeting and of all special meetings held subsequent thereto;
5. public comment;
6. reports and recommendations of subcommittees;
7. unfinished business; and
8. new business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 42:50 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1729 (September 2017).

§235. Meetings

A. Meetings shall be conducted in accordance with the state law governing public bodies. It shall be the policy of the advisory board that all meetings are open to the public

and that parties with interest in the proceedings are encouraged to attend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1729 (September 2017).

§237. Agenda

A. Prior to each regular or special meeting of the advisory board, the executive director of OSFA shall prepare a tentative agenda and forward it to each member of the advisory board at least five working days prior to such meeting. With the concurrence of its members, all matters supportive of the purpose of the advisory board may be discussed even though not scheduled on the agenda.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1730 (September 2017).

§239. Minutes

A. At a minimum, the minutes of the advisory board shall record official motions or recommendations that are voted on by the advisory board. The minutes may contain a summary of reports and pertinent discussion of issues. Each recommendation shall be reduced to writing and presented to the advisory board before it is acted on. The minutes of meetings of the advisory board become official when approved by the advisory board at its next scheduled meeting but, prior to such occurrence, the minutes may be presented to the Board of Regents as the unofficial action of the advisory board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1730 (September 2017).

§241. Meeting Attendance

A. Members unable to continue their service on the advisory board shall so notify the chairman and request that a replacement be named in accordance with §221 of these bylaws. Members who fail to regularly attend meetings without just cause, may be removed from membership in accordance with §221 of these bylaws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:612 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1730 (September 2017).

§243. Subcommittees

A. Executive Committee

1. The executive committee shall consist of four members. The chairman and vice chairman of the advisory board shall serve in those capacities on the executive committee. The remaining persons, for a total of four members, shall be appointed by the chairman of the advisory board from the other members of the advisory board.

2. The executive committee shall:

a. meet for and conduct the business of the advisory board in all instances that the public has been given notice of a meeting of the advisory board and the advisory board does not have a quorum at that meeting. In such cases, the actions of the executive committee shall have the same force and effect as if a quorum of the advisory board had taken the action;

b. consider such matters as shall be referred to it by the advisory board and shall execute such orders and resolutions as shall be assigned to it at any meeting of the advisory board;

c. in the event that an emergency requiring immediate advisory board action shall arise between advisory board meetings, meet in emergency session to take such action as may be necessary and appropriate. The executive committee shall report the actions it takes in emergency session to the advisory board for ratification at the advisory board's next meeting.

3. All official actions of the executive committee shall require a majority vote of the quorum present at the meeting.

4. The executive committee may enter into an executive session only upon two-thirds majority vote of the quorum present and only for one of the reasons specified in the Louisiana open meetings law.

B. Other subcommittees may be appointed by the chairman to perform specific functions defined by the advisory board. The membership, chairmanship, and function of subcommittees shall be determined by the chairman. Generally, the business rules defined herein shall be applicable to subcommittees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1730 (September 2017).

Subchapter E. Approval and Amendment of Bylaws

§245. Approval of Bylaws

A. To receive the Board of Regents' consideration, advisory board bylaws must be favorably recommended by the advisory board and the executive director of LOSFA. Bylaws become effective upon approval by the Board of Regents and publication as a final Rule in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:612 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1730 (September 2017).

§247. Amendments to Bylaws

A. The advisory board, at any of its scheduled regular meetings, may recommend the amendment or repeal of the provisions herein upon a simple majority vote of the entire membership of the advisory board. Amendment or repeal of the bylaws becomes effective upon approval by the Board of Regents and publication as an Emergency Rule and/or a final Rule in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:612 (April 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:1730 (September 2017).

Robyn Rhea Lively
Senior Attorney

1709#013

RULE

Tuition Trust Authority Office of Student Financial Assistance

START Saving Program (LAC 28:VI.315)

The Tuition Trust Authority has amended its START Saving Program rules (R.S. 17:3091 et seq.). This rulemaking adds the applicable interest rates for the 2016 calendar year. (ST17177R)

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 3. Education Savings Account

§315. Miscellaneous Provisions

A. - B.34. ...

35. For the year ending December 31, 2016, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.6 percent.

36. For the year ending December 31, 2016, the Savings Enhancement Fund earned an interest rate of 1.2 percent.

C. - S.2. ...

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016), LR 42:1658 (October 2016), LR 43:1731 (September 2017).

Robyn Rhea Lively
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1709#018

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Prevention of Significant Deterioration (PSD) Permits
(LAC 33:III.509)(AQ371ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.509 (AQ371ft).

This Rule is identical to federal regulations found in 81 FR 71629, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule is promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

LAC 33:III.509.W.4 requires the public to be given “adequate notice of the rescission” of a prevention of significant deterioration (PSD) permit. This Rule specifies that the department must provide such notice with 60 days of the rescission.

The federal PSD program requires notice of the rescission of a PSD permit to be provided within 60 days of the rescission. 40 CFR 52.21(w)(4) reads:

If the administrator rescinds a permit under this paragraph, the administrator shall post a notice of the rescission determination on a public website identified by the administrator within 60 days of the rescission.

The basis and rationale for this Rule are to amend LAC 33:III.509.W.4 to require that notice of the rescission of a PSD permit be provided within 60 days of the rescission. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§509. Prevention of Significant Deterioration

A. - W.3. ...

4. If the administrative authority rescinds a permit under this Subsection, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission on the department’s website within 60 days of the rescission shall be considered adequate notice.

X. - AA.15.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR

14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 36:2556 (November 2010), LR 37:1148 (April 2011), repromulgated LR 37:1389 (May 2011), amended LR 37:1570 (June 2011), repromulgated LR 37:2146 (July 2011), amended by the Office of the Secretary, Legal Division, LR 38:3163 (December 2012), LR 39:1280 (May 2013), LR 42:402 (March 2016), LR 42:564 (April 2016), LR 43:926 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:1731 (September 2017).

Herman Robinson
General Counsel

1709#015

RULE

Department of Health Bureau of Health Services Financing

Ambulatory Surgical Centers Licensing Standards (LAC 48:I.Chapter 45)

The Department of Health, Bureau of Health Services Financing has repealed and replaced LAC 48:I.Chapter 45 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2131-2141. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

Subchapter A. General Provisions

§4501. Introduction

A. These regulations contain the minimum licensing standards for ambulatory surgical centers, pursuant to R.S. 40:2131-2141. Ambulatory surgical centers are established for the purpose of rendering surgical procedures to its patients on an outpatient basis.

B. The care and services to be provided by an ambulatory surgical center (ASC) shall include:

1. surgical procedures;
2. medications as needed for medical and surgical procedures rendered;
3. services necessary to provide for the physical and emotional well-being of patients;
4. emergency medical services; and
5. organized administrative structure and support services.

C. Licensed ASCs shall have one year from the date of promulgation of the final Rule to comply with all of the provisions herein.

D. For those ASCs that apply for their initial ASC license after the effective date of the promulgation of this Rule, or receive plan review approval for initial construction or major renovations after the effective date of the promulgation of this Rule, or change their geographic address after the effective date of the promulgation of this Rule, such shall be required to comply with all of the provisions herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1732 (September 2017).

§4503. Definitions

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall ASC's operation commensurate with the authority conferred by the governing body.

Ambulatory Surgical Center (ASC)—a distinct entity that is wholly separate and clearly distinguishable from any other healthcare facility or office-based physician's practice. An ASC shall be composed of operating room(s) and/or procedure room(s) with an organized medical staff of physicians and permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures. An ASC provides continuous physician and professional nursing services to patients whenever a patient is in the ASC, but does not provide services or accommodations for patients to stay overnight.

1. The following services shall be offered by the ASC when a patient is in the center:

- a. drug services as needed for medical operations and procedures performed;
- b. provisions for the physical and emotional well-being of patients;
- c. provision of emergency services;
- d. organized administrative structure; and
- e. administrative, statistical and medical records.

2. An ASC may also be defined as a treatment center that is organized primarily for the purpose of offering stereotactic radiosurgery by use of a gamma knife or similar neurosurgical tool.

3. An ASC that enters into a use agreement with another entity/individual shall have separate, designated hours of operation.

Certified Registered Nurse Anesthetist (CRNA)—an advanced practice registered nurse who administers anesthetics or ancillary services in accordance with the licensing requirements of the State Board of Nursing (LSBN) and under the supervision of a physician or dentist who is licensed under the laws of the state of Louisiana. The CRNA determines and implements the anesthesia care plan for a patient during a procedure and, for the safety of the patient, shall not be involved in other aspects of the procedure.

Cessation of Business—when an ASC is non-operational and voluntarily stops rendering services to the community.

Controlled Dangerous Substance (CDS)—a drug, substance or immediate precursor in schedule I through V of R.S. 40:964.

Department (LDH)—the Louisiana Department of Health.

Division of Administrative Law (DAL)—the agency authorized to conduct fair hearings and take actions on appeals of departmental decisions as provided for in the Administrative Procedure Act, or its successor.

Endoscopic Retrograde Cholangiopancreatography (ERCP)—a procedure used to diagnose diseases of the gallbladder, biliary system, pancreas and liver.

Endoscopic Ultrasound/Fine Needle Aspiration (EUS/FNA)—a technique using sound waves during an endoscopic procedure to look at, or through, the wall of the gastrointestinal tract.

Governing Body—the individual or group of individuals who are legally responsible for the operation of the ASC, including management, control, conduct and functioning of the ASC, also known as the governing authority.

Immediately Available—a person that is not assigned to any uninterruptible tasks.

Invasive Procedure—a procedure that:

1. penetrates the protective surfaces of a patient's body;
2. is performed in an aseptic surgical field;
3. generally requires entry into a body cavity; and
4. may involve insertion of an indwelling foreign body.

NOTE: The intent is to differentiate those procedures that carry a high risk of infection, either by exposure of a usually sterile body cavity to the external environment or by implantation of a foreign object(s) into a normally sterile site. Procedures performed through orifices normally colonized with bacteria and percutaneous procedures that do not involve an incision deeper than skin would not be included.

Length of Patient Stay—the period of time that begins with the admission of the patient to the ASC and ends with the discharge of the patient from the ASC. The time of admission shall be calculated in accordance with the ASC's written policy. The length of any patient stay shall be documented.

Licensing Agency—the Louisiana Department of Health.

Medical Staff—physicians, dentists, podiatrists and other professional licensed medical practitioners who are authorized to practice in the ASC according to these standards and the requirements of the governing authority.

Minimal Sedation—as defined by the American Society of Anesthesiology (ASA), a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes, ventilatory and cardiovascular functions are unaffected.

Minor Alterations—the painting of walls, changing of flooring products or any other cosmetic changes to the ASC which do not involve moving structural walls, doors, windows, electrical or plumbing.

Miscarried Child—the fetal remains resulting from a spontaneous fetal death that does not require compulsory registration pursuant to the provisions of R.S. 40:47.

New Construction—any of the following structures that will be started after promulgation of these provisions shall be considered new construction:

1. newly constructed buildings;
2. additions to existing buildings;
3. conversions of existing buildings or portions thereof;

4. alterations, other than minor alterations, to an already existing ASC; or

5. any previously licensed ASC that has voluntarily or involuntarily ceased providing ASC services and surrendered its license shall be considered new construction for plan review purposes.

Non-Operational—when the ASC is not open for business operation on designated days and hours as stated on the licensing application.

Operating Room (OR)—a room in the surgical center that meets the requirements of a restricted area and is designated and equipped for performing surgical or other invasive procedures. An aseptic field is required for all procedures performed in an OR. Any form of anesthesia may be administered in an OR if proper anesthesia gas administration devices are present and exhaust systems are provided.

Overnight—the length of admission to an ASC of any patient that exceeds 23 hours, which is calculated as the time of admission to the time of discharge from the ASC.

Physician—a licensed medical practitioner who possesses an unrestricted license and is in good standing with the State Board of Medical Examiners. This includes a doctor of:

1. medicine;
2. osteopathy;
3. podiatry;
4. optometry;
5. dental surgery or dental medicine; or
6. chiropractic.

Procedure Room—a room designated for the performance of a procedure that is not deemed to be an invasive procedure. The procedure may require the use of sterile instruments or supplies but not the use of special ventilation or scavenging equipment for anesthetic agents.

Standards—the rules, regulations and policies duly adopted and promulgated by the Department of Health with the approval of the secretary.

Unlicensed Assistive Personnel (UAP)—any unlicensed trained personnel who cannot practice independently or without supervision by a registered nurse. This may include operating and/or procedure room technicians, instrument cleaning and/or sterilization technicians and nursing assistants or orderlies.

Use Agreement—a written agreement between a licensed ASC and an individual or entity in which the ASC allows the individual or entity to use its facility, or a portion thereof, on a part-time basis to provide the services of an ASC. All use agreements shall comply with applicable federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1732 (September 2017).

§4505. Licensing Requirements

A. The Department of Health, Health Standards Section (HSS) is the only licensing authority for ASCs in the state of Louisiana.

B. Each ASC license shall:

1. be issued only to the person or entity named in the license application;

2. be valid only for the ASC to which it is issued and only for the specific geographic address of that ASC;

3. be valid for one year from the date of issuance, unless revoked, suspended, modified or terminated prior to that date, or unless a provisional license is issued:

a. a provisional license shall be valid for a period of six months if the department determines that there is no immediate and serious threat to the health and safety of patients;

4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the ASC;

5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and

6. be posted in a conspicuous place on the licensed premises at all times.

C. The ASC shall abide by and adhere to any federal, state, and local laws, rules, policies, procedures, manuals or memorandums applicable to such facilities. ASCs that have entered into a use agreement shall be responsible for compliance with these licensing standards and any applicable state and federal rules and regulations during the period of use of the ASC.

D. A separately licensed ASC shall not use a name which is the same as the name of another such ASC licensed by the department.

E. A licensed ASC shall notify the department prior to any changes or additions of surgical services. If these surgical services are new to the ASC, the ASC shall provide these surgical services in accordance with the provisions of this Chapter and in accordance with accepted standards of practice.

F. All accredited, or deemed ASCs, shall notify the department prior to the expiration date of any changes in accreditation or deemed status.

G. An ASC shall not have any off-site campuses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1733 (September 2017).

§4507. Initial Licensure Application Process

A. An initial application for licensing as an ASC shall be obtained from the department. A completed initial license application packet for an ASC shall be submitted to, and approved by the department, prior to an applicant providing services.

B. The initial licensing application packet shall include:

1. a completed licensure application and the non-refundable licensing fee as established by statute;

2. a copy of the approval letter(s) of the architectural and licensing facility plans from the Office of the State Fire Marshal (OSFM) and any other office/entity designated by the department to review and approve the facility's architectural and licensing plan review;

3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal, if applicable;

4. a copy of the on-site health inspection report with approval for occupancy from the Office of Public Health (OPH);

5. proof of each insurance coverage as follows:

a. general liability insurance of at least \$300,000 per occurrence;

b. worker's compensation insurance as required by state law;

c. professional liability insurance of at least \$300,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

i. if the ASC is not enrolled in the PCF, professional liability limits shall be \$1 million per occurrence/\$3 million per annual aggregate; and

d. the LDH Health Standards Section shall specifically be identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent);

6. proof of a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;

7. disclosure of ownership and control information;

8. the usual and customary days and hours of operation;

9. an organizational chart and names, including position titles, of key administrative personnel and governing body;

10. controlled dangerous substance application;

11. fiscal intermediary, if applicable;

12. Secretary of State's articles of incorporation;

13. clinical laboratory improvement amendments (CLIA) certificate or CLIA certificate of waiver, if applicable;

14. an 8.5 x 11 inch mapped floor plan; and

15. any other documentation or information required by the department for licensure.

C. If the initial licensing packet is incomplete, the applicant shall be notified of the missing information, and shall have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application shall be closed. If an initial licensing application is closed, an applicant who is still interested in becoming an ASC shall be required to submit a new initial licensing application packet with the required fee to start the initial licensing process.

D. Once the initial licensing application packet has been approved by the department, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the approval of the application, the applicant shall notify the department that the ASC is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed ASC shall be required to submit a new initial licensing packet with the required fee to start the initial licensing process.

E. Applicants shall be in compliance with all appropriate federal, state, departmental or local statutes, laws,

ordinances, rules, regulations and fees before the ASC will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1734 (September 2017).

§4509. Initial Licensing Surveys

A. Prior to the initial license being issued, an initial on-site licensing survey shall be conducted to ensure compliance with the licensing laws and standards.

1. The initial licensing survey of an ASC shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced surveys.

B. The ASC shall not provide services to any patient until the initial licensing survey has been performed and the ASC has been determined to be in compliance with the licensing regulations and has received written approval from the Health Standards Section (HSS).

C. In the event that the initial licensing survey finds that the ASC is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the center. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

D. In the event that the initial licensing survey finds that the ASC is noncompliant with any licensing laws or regulations, or any other required rules or regulations that present a potential threat to the health, safety, or welfare of the patients, the department shall deny the initial license.

E. In the event that the initial licensing survey finds that the ASC is noncompliant with any licensing laws or regulations, or any other required rules or regulations, but the department in its sole discretion determines that the noncompliance does not present a threat to the health, safety or welfare of the patients, the department may issue a provisional initial license for a period not to exceed six months. The ASC shall submit a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

1. If all such noncompliance or deficiencies are corrected on the follow-up survey, a full license may be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or new deficiencies affecting the health, safety or welfare of a patient are cited, the provisional license will expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and the required licensing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1735 (September 2017).

§4511. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses.

1. Full Initial License. The department shall issue a full license to the ASC when the initial licensing survey finds that the ASC is compliant with all licensing laws and

regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

2. Provisional Initial License. The department may issue a provisional initial license to the ASC when the initial licensing survey finds that the ASC is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the patients.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed ASC that is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed ASC for a period not to exceed six months for any of the following reasons.

1. The existing ASC has more than five deficient practices or deficiencies cited during any one survey.

2. The existing ASC has more than three substantiated complaints in a 12-month period.

3. The existing ASC has been issued a deficiency that involved placing a patient at risk for serious harm or death.

4. The existing ASC has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing ASC is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed ASC, the ASC shall submit a plan of correction to the department for approval and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct a follow-up survey, either on-site or by desk review, of the ASC prior to the expiration of the provisional license.

1. If the follow-up survey determines that the ASC has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the ASC license.

2. If the follow-up survey determines that all non-compliance or deficiencies have not been corrected, or if new deficiencies that are a threat to the health, safety or welfare of a patient are cited on the follow-up survey, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

3. The department shall issue written notice to the ASC of the results of the follow-up survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1735 (September 2017).

§4513. Changes in Licensee Information or Personnel

A. An ASC license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any permanent change regarding the entity ASC's name, "doing business as" name, mailing address, telephone number, stated days and hours of operation, or any combination thereof, shall be reported in writing to the department within five business days of the change.

1. For any temporary closures of the ASC greater than 24 hours, other than weekends or holidays, the ASC shall notify HSS in advance.

2. At any time that the ASC has an interruption in services or a change in the licensed location due to an emergency situation, the ASC shall notify HSS no later than the next stated business day.

C. Any change regarding the ASC's key administrative personnel shall be reported in writing to the department within 10 days of the change.

1. Key administrative personnel include the:

- a. administrator; and
- b. director of nursing.

2. The ASC's notice to the department shall include the individual's:

- a. name;
- b. address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the ASC shall be reported in writing to the department within five days of the change. A CHOW may include one of the following.

1. Partnership. In the case of a partnership, the removal, addition, or the substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law, constitutes a change of ownership.

2. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes a change of ownership.

3. Corporation. The merger of the ASC corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes a change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership.

E. The license of an ASC is not transferable or assignable and cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

1. An ASC that is under license revocation, provisional licensure and/or denial of license renewal may not undergo a CHOW.

2. If the CHOW results in a change of geographic address, an on-site survey shall be required prior to issuance of the new license.

F. If the ASC changes its name without a change in ownership, the ASC shall report such change to the department in writing five days prior to the change. The change in the ASC's name requires a change in the license and payment of the required fee for a name change and re-issuance of a license.

G. Any request for a duplicate license shall be accompanied by the applicable required fee.

H. If the ASC changes the physical address of its geographic location without a change in ownership, the ASC shall report such change to the department in writing at least six weeks prior to the change. Because the license of an ASC is valid only for the geographic location of that ASC, and is not transferrable or assignable, the ASC shall submit a new licensing application and all of the required fees, licensing inspection reports, and licensing plan reviews for the new location.

1. An on-site survey shall be required prior to the issuance of the new license.

2. The change in the ASC's physical address results in a new anniversary date and the full licensing fee shall be paid.

I. An ASC that enters into a use agreement shall submit written notification to the department within five days of the effective date of the agreement. This notice shall include:

1. a copy of the signed use agreement;
2. the designated days and hours of operation that each entity/individual will be using the licensed ASC; and
3. the type of surgical procedures, by specialty, that each entity/individual will be performing at the licensed ASC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1736 (September 2017).

§4515. Renewal of License

A. The ASC shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. the license renewal application;
2. the non-refundable license renewal fee;
3. the stated days and hours of operation;
4. a current State Fire Marshal report;
5. a current OPH inspection report;
6. proof of each insurance coverage as follows:
 - a. general liability insurance of at least \$300,000 per occurrence;
 - b. worker's compensation insurance of at least \$100,000 as required by state law;
 - c. professional liability insurance of at least \$300,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):
 - i. if the ASC is not enrolled in the PCF, professional liability limits shall be \$1,000,000 per occurrence/\$3,000,000 per annual aggregate;
 - d. the LDH Health Standards Section shall specifically be identified as the certificate holder on the any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent);
7. proof of a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;
8. statement of attestation of ASC compliance with the provisions of §4581; and

9. any other documentation required by the department or CMS if applicable.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the ASC license. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the ASC.

D. If an existing licensed ASC has been issued a notice of license revocation, suspension or termination, and the ASC's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

1. If a timely administrative appeal has been filed by the ASC regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the ASC shall be allowed to continue to operate and provide services until such time as the administrative tribunal or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the ASC pose an imminent or immediate threat to the health, welfare, or safety of a patient, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the ASC will be notified in writing.

3. The denial of the license renewal application does not affect in any manner the license revocation, suspension, or termination.

E. The renewal of a license does not in any manner affect any sanction, civil monetary penalty or other action imposed by the department against the ASC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1736 (September 2017).

§4517. Survey Activities

A. The department may conduct periodic licensing surveys and other surveys as deemed necessary to ensure compliance with all laws, rules and regulations governing ASCs and to ensure patient health, safety and welfare. These surveys may be conducted on-site or by administrative review and shall be unannounced.

B. The department may require an acceptable plan of correction from the ASC for any survey where deficiencies have been cited, regardless of whether the department takes other action against the ASC for the deficiencies cited in the survey. The acceptable plan of correction shall be submitted for approval to the department within the prescribed timeframe.

C. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

D. The department may issue appropriate sanctions for noncompliance, deficiencies and violations of law, rules and regulations. Sanctions may include, but are not limited to:

1. civil fines;
2. directed plans of correction;
3. denial of license renewal; and/or

4. license revocation.

E. LDH surveyors and staff shall be:

1. given access to all areas of the ASC and all relevant files and other documentation as necessary or required to conduct the survey:

a. for any records or other documentation stored on-site, such shall be provided within one to two hours of surveyor request; and

b. for any records or other documentation stored off-site, such shall be provided to the surveyor for review no later than 24 hours from the time of the surveyor's request.

2. allowed to interview any facility staff, patient or other persons as necessary or required to conduct the survey; and

3. allowed to photocopy any records/files requested by surveyors during the survey process.

F. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1737 (September 2017).

§4519. Statement of Deficiencies

A. Any statement of deficiencies issued by the department to an ASC shall be available for disclosure to the public 30 days after the ASC submits an acceptable plan of correction to the deficiencies or 90 days after the statement of deficiencies is issued to the ASC, whichever occurs first.

B. Unless otherwise provided in statute or in these licensing provisions, the ASC shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided in these standards.

3. The request for informal reconsideration of the deficiencies shall be made to HSS and will be considered timely if received by HSS within 10 calendar days of the ASC's receipt of the statement of deficiencies.

4. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration. The ASC shall be notified in writing of the results of the informal reconsideration.

5. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for initial license denials, license revocations and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1737 (September 2017).

§4521. Denial of Initial License, Revocation of License, Denial of License Renewal

A. The department may deny an application for an initial license or a license renewal, or may revoke a license in

accordance with the provisions of the Administrative Procedure Act.

B. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ASC is noncompliant with any licensing laws or regulations, or any other required statutes or regulations that present a potential threat to the health, safety or welfare of the patients.

2. The department shall deny an initial license for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

3. If the department denies an initial license, the applicant for an ASC license shall not render services to patients.

C. Voluntary Non-Renewal of a License. If the ASC fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the facility.

D. Revocation of License or Denial of License Renewal. An ASC license may be revoked or denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ASC licensing laws, rules and regulations;

2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules or regulations;

3. failure to uphold patient rights whereby deficient practices result in harm, injury or death of a patient;

4. failure to protect a patient from a harmful act by an ASC employee or other patient on the premises including, but not limited to:

a. any action which poses a threat to patient or public health and safety;

b. coercion;

c. threat or intimidation;

d. harassment;

e. abuse; or

f. neglect;

5. failure to notify the proper authorities, as required by federal or state law or regulations, of all suspected cases of the acts outlined in §4521.D.4;

6. failure to employ qualified personnel;

7. failure to submit an acceptable plan of correction for deficient practices cited during an on-site survey within the stipulated timeframes;

8. failure to submit the required fees, including but not limited to:

a. fees for address or name changes;

b. any fine assessed by the department; or

c. fee for a CHOW;

9. failure to allow entry into the ASC or access to requested records during a survey;

10. failure to protect patients from unsafe care by an individual employed by the ASC;

11. when the ASC staff or owner knowingly (or with reason to know) makes a false statement of a material fact in any of the following:

a. the application for licensure;

b. data forms;

c. clinical records;

d. matters under investigation by the department;

e. information submitted for reimbursement from any payment source; or

f. advertising;

12. conviction of a felony or entering a plea of guilty or nolo contendere to a felony by an owner, administrator, director of nursing, or medical director as evidenced by a certified copy of the conviction;

13. failure to comply with all of the reporting requirements in a timely manner as requested by the department;

14. failure to comply with the terms and provisions of a settlement agreement with the department or an educational letter;

15. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment; or

16. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department.

E. In the event an ASC license is revoked, renewal is denied or the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director or administrator of such ASC is prohibited from owning, managing, directing or operating another ASC for a period of two years from the date of the final disposition of the revocation, denial action or surrender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1737 (September 2017).

§4523. Notice and Appeal of Initial License Denial, License Revocation and Denial of License Renewal

A. Notice of an initial license denial, license revocation or denial of license renewal shall be given to the ASC in writing.

B. The ASC has a right to an administrative reconsideration of the initial license denial, license revocation or denial of license renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the ASC.

1. The request for the administrative reconsideration shall be submitted within 15 days of the receipt of the notice of the initial license denial, license revocation or denial of license renewal. The request for administrative reconsideration shall be in writing and shall be forwarded to HSS.

2. The request for administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received by HSS, an administrative reconsideration shall be scheduled and the ASC will receive written notification of the date of the administrative reconsideration.

4. The ASC shall have the right to appear in person at the administrative reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the initial license denial, revocation or denial of license renewal shall not be a basis for reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The ASC will be notified in writing of the results of the administrative reconsideration.

C. The ASC has a right to an administrative appeal of the initial license denial, license revocation or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the ASC.

1. The ASC shall request the administrative appeal within 30 days of the receipt of the results of the administrative reconsideration.

a. The ASC may forego its rights to an administrative reconsideration, and if so, shall request the administrative appeal within 30 days of the receipt of the notice of the initial license denial, license revocation or denial of license renewal.

2. The request for administrative appeal shall be in writing and shall be submitted to the DAL. The request shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the ASC shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the ASC pose an imminent or immediate threat to the health, welfare or safety of a patient, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the ASC will be notified in writing.

4. Correction of a violation or a deficiency which is the basis for the denial of initial licensure, revocation or denial of license renewal shall not be a basis for an administrative appeal.

D. If an existing licensed ASC has been issued a notice of license revocation, and the ASC's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation.

E. If a timely administrative appeal has been filed by the ASC on an initial license denial, denial of license renewal or license revocation, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final decision is to reverse the initial license denial, denial of license renewal or license revocation, the ASC's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

2. If the final decision is to affirm the denial of license renewal or license revocation, the ASC shall stop rendering services to patients.

a. Within 10 days of the final decision, the ASC shall notify HSS, in writing, of the secure and confidential location where the patient records will be stored.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial

license to a new ASC or the issuance of a provisional license to an existing ASC. An ASC that has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of initial licensure, denial of license renewal or revocation.

G. An ASC with a provisional initial license or an existing ASC with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey shall have the right to an informal reconsideration and the right to an administrative appeal of the validity of the deficiencies cited at the follow-up survey.

1. The correction of a violation, noncompliance or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The ASC shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five calendar days of receipt of the notice of the results of the follow-up survey from the department.

4. The ASC shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the DAL.

5. An ASC with a provisional initial license or an existing ASC with a provisional license that expires under the provisions of this Chapter shall cease providing services to patients unless the DAL issues a stay of the expiration.

a. The stay may be granted by the DAL upon application by the ASC at the time the administrative appeal is filed and only after a contradictory hearing and only upon a showing that there is no potential harm to the patients being served by the ASC.

6. If a timely administrative appeal has been filed by the ASC with a provisional initial license that has expired, or by an existing ASC whose provisional license has expired under the provisions of this Chapter, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

a. If the final decision is to remove all deficiencies, the ASC's license will be re-instated upon the payment of any outstanding sanctions and licensing or other fees due to the department.

b. If the final decision is to uphold the deficiencies thereby affirming the expiration of the provisional license, the ASC shall cease rendering services to patients.

i. Within 10 days of the final decision, the ASC shall notify HSS in writing of the secure and confidential location where the patient records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1738 (September 2017).

§4525. Cessation of Business

A. Except as provided in §4583 and §4585 of these licensing regulations, a license shall be immediately null and void if an ASC ceases to operate.

B. A cessation of business is deemed to be effective the date on which the ASC stopped offering or providing services to the community.

C. Upon the cessation of business, the ASC shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the ASC. The ASC does not have a right to appeal a cessation of business.

E. The ASC shall notify the department in writing 30 days prior to the effective date of the closure or cessation. In addition to the notice, the ASC shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

1. the effective date of the closure;
2. provisions that comply with federal and state laws on storage, maintenance, access and confidentiality of the closed provider's patients medical records; and
3. appointed custodian(s) who shall provide the following:
 - a. access to records and copies of records to the patient or authorized representative, upon presentation of proper authorization(s); and
 - b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction;
4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

F. If an ASC fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an ASC for a period of two years.

G. Once the ASC has ceased doing business, the center shall not provide services until the ASC has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1739 (September 2017).

Subchapter B. Administration and Organization

§4531. Governing Body

A. An ASC shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the ASC, which shall include use agreements and all contracts. The governing body is the ultimate governing authority of the ASC and shall adopt bylaws which address its responsibilities. No contract or other arrangements, including use agreements, shall limit or diminish the responsibilities of the governing body.

B. An ASC shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office for any officers.

C. The governing body shall be comprised of one or more persons and shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings, and the bylaws shall specify the frequency of meetings and quorum requirements.

D. The governing body of an ASC shall:

1. ensure the ASC's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

2. ensure that the ASC is adequately funded and fiscally sound which entails:

a. verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less; or

b. a letter of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000 or the cost of three months of operation, whichever is less;

3. review and approve the ASC's annual budget;

4. designate a person to act as the administrator and delegate sufficient authority to this person to manage the day-to-day operations of the ASC;

5. annually evaluate the administrator's performance;

6. have the authority to dismiss the administrator;

7. formulate and annually review, in consultation with the administrator, written policies and procedures concerning the ASC's philosophy, goals, current services, personnel practices, job descriptions, fiscal management, contracts and use agreements:

a. the ASC's written policies and procedures shall be maintained within the ASC and made available to all staff at all times;

8. determine, in accordance with state law, which practitioners are eligible candidates for appointment to the medical staff and make the necessary appointments;

9. determine, in conjunction with the medical staff, whether the ASC will provide services beyond the customary hours of operation by allowing a patient to stay up to 23 hours. If permitted the ASC shall provide continuous physician (on call and available to be on-site as needed) and professional nursing services (registered nurse) on-site. In addition, the ASC shall provide for ancillary services to accommodate patient needs during this extended stay including but not limited to medication and nutrition;

10. ensure and maintain quality of care, inclusive of a quality assurance/performance improvement process that measures patient, process, and structural (e.g. system) outcome indicators to enhance patient care;

11. ensure that surgical or invasive procedures shall not be performed in areas other than the operating room or other designated and approved treatment rooms;

12. ensure that surgical or invasive procedures are initiated in accordance with acceptable standards of practice, which includes the use of standard procedures, such as a timeout to ensure proper identification of the patient and surgical site, in order to avoid wrong site, wrong person or wrong procedure errors;

13. meet with designated representatives of the department whenever required to do so;

14. inform the department, or its designee, prior to initiating any substantial changes in the services provided by the ASC; and

15. ensure that pursuant to R.S. 40:1191.2, prior to the final disposition of a miscarried child, but not more than 24 hours after a miscarriage occurs in an ASC, the ASC shall notify the patient, or if the patient is incapacitated, the

spouse of the patient, both orally and in writing, of both of the following:

- a. the parent's right to arrange for the final disposition of the miscarried child through the use of the notice of parental rights form as provided for in R.S. 40:1191.3; and
- b. the availability of a chaplain or other counseling services concerning the death of the miscarried child, if such services are provided by the ASC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1740 (September 2017).

§4533. Policy and Procedures

A. An ASC, through collaboration by the administrator, medical staff, director of nursing, pharmacist, and other professional persons deemed appropriate by the ASC, shall develop, implement and maintain written policies and procedures governing all services rendered at the ASC. The ASC shall comply with all federal and state laws, rules and regulations in the development and implementation of its policies and procedures.

B. All policies and procedures shall be reviewed at least annually and revised as needed.

C. Direct care and medical staff shall have access to information concerning patients that is necessary for effective performance of the employee's assigned tasks.

D. The ASC shall have written policies and procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

E. The ASC shall allow designated representatives of the department, in the performance of their mandated duties, to:

1. inspect all aspects of an ASC's operations which directly or indirectly impact patients; and
2. interview any physician, staff member or patient.

F. An ASC shall make any required information or records, and any information reasonably related to assessment of compliance with these provisions, available to the department.

G. An ASC shall, upon request by the department, make available the legal ownership documents, use agreements and any other legal contracts or agreements in place.

H. The ASC shall have written policies and procedures approved by the governing body, which shall be implemented and followed, that address, at a minimum, the following:

1. confidentiality and confidentiality agreements;
2. security of files;
3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;
4. personnel;
5. patient rights;
6. grievance procedures;
7. emergency preparedness;
8. abuse and neglect;
9. incidents and accidents, including medical emergencies;
10. universal precautions;
11. documentation, whether electronic or in paper form;
12. admission and discharge procedures;

13. hours outside of stated usual and customary operation, including but not limited to early closures, extended business hours and holidays; and

14. conditions for coverage, if applicable.

I. An ASC shall have written personnel policies, which shall be implemented and followed, that include:

1. written job descriptions for each staff position, including volunteers;

2. policies which provide for staff, upon offer of employment, to have a health assessment as defined by the ASC and in accordance with LAC Title 51, *Public Health—Sanitary Code* guidelines;

3. policies which verify that all physicians, clinic employees, including contracted personnel and personnel practicing under a use agreement, prior to, and at the time of employment and annually thereafter, shall be free of tuberculosis in a communicable state, in accordance with the current LAC Title 51, *Public Health—Sanitary Code*;

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment, whether that abuse or mistreatment is done by another staff member, a family member, a patient or any other person;

6. a written policy to prevent discrimination; and

7. a written policy to address prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restrictive use of social media and include, at a minimum, ensuring confidentiality of patient information and preservation of patient dignity and respect, including protection of patient privacy and personal and property rights.

J. The ASC shall maintain, in force at all times, the requirements for financial viability under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1741 (September 2017).

Subchapter C. Admissions, Transfers and Discharges

§4539. Admissions and Assessments

A. Each ASC shall have written admission and assessment policies and criteria.

B. An individual or entity that enters into a use agreement with a licensed ASC shall be required to adhere to all of the provisions of this Section.

C. An ASC shall ensure that each patient has the appropriate pre-surgical and post-surgical assessments completed, inclusive of suitability for less than 23-hour timeframe of patient stay, ability of the ASC to provide services needed in the post-operative period in accordance with prescribed plan of care, and discharge plans to home or another licensed facility setting.

D. Within 30 days prior to the date of the scheduled surgery, each patient shall have a comprehensive medical history and physical assessment completed by a physician or other qualified licensed professional practitioner in accordance with applicable state health and safety laws, ASC policies, and standards of practice.

E. The history and physical assessment prior to surgery shall specify that the patient is medically cleared for surgery in an ambulatory setting and is required on all patients regardless of whether the patient is referred for surgery on

the same day that the referral is made and the referring physician has indicated that it is medically necessary for the patient to have the surgery on the same day.

F. Upon admission, each patient shall have a pre-surgical assessment completed by a physician or other qualified licensed health practitioner. The pre-surgical assessment shall include, at a minimum:

1. an updated medical record entry documenting an examination for any changes in the patient's condition since completion of the most recently documented medical history and physical assessment; and

2. documentation of any known allergies to drugs and/or biological agents.

G. The patient's medical history and physical assessment shall be placed in the patient's medical record prior to the surgical procedure.

H. The patient's post-surgical condition shall be assessed and documented in the medical record by a physician, other licensed medical practitioner, or a registered nurse (RN) with, at a minimum, the required post-operative care experience in accordance with applicable state health and safety laws, ASC policies and standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1741 (September 2017).

§4541. Transfer Agreements and Patient Transfers

A. The ASC shall secure a written transfer agreement with at least one hospital in the community. A transfer agreement shall serve as evidence of a procedure whereby patients can be transferred to a hospital should an emergency arise which would necessitate hospital admission.

1. If a written transfer agreement is established with a hospital in the community, medical staff at the ASC shall still be required to adhere to the provisions of §4541.B and C.

2. If the ASC is not able to secure a written transfer agreement, the ASC's compliance with §4541.C shall substantiate the ASC's capability to obtain hospital care for a patient if the need arises.

B. Each member of the medical staff of the ASC, including physicians who practice under a use agreement, shall be a member in good standing on the medical staff of at least one hospital in the community and that hospital shall be licensed by the department. Members of the ASC medical staff shall be granted surgical privileges compatible with privileges granted by the hospital for that physician.

C. The admitting physician of the ASC shall be responsible for effecting the safe and immediate transfer of patients from the ASC to a hospital when, in his/her medical opinion, hospital care is indicated.

D. The ASC is responsible for developing written policies and procedures for the safe transfer of patients and coordination of admission, when necessary, into an inpatient facility. The written policy shall include, but is not limited to:

1. identification of the ASC personnel who shall be responsible for the coordination of admission into an inpatient facility;

2. procedures for securing inpatient services; and

3. procedures for the procurement of pertinent and necessary copies of the patient's medical record that will be sent with the transferring patient so that the information may be included in the patient's inpatient medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1742 (September 2017).

§4543. Discharges

A. Each ASC shall have written discharge policies and procedures. The written description of discharge policies shall be provided to the department upon request and made available to the patient or his/her legal representative. The ASC shall ensure that all elements of the discharge requirements are completed.

B. Any individual or entity that enters into a use agreement with a licensed ASC shall be required to adhere to all of the provisions of this Section.

C. The post-surgical needs of each patient shall be addressed and documented in the discharge notes.

D. Upon discharge, the ASC shall:

1. provide each patient with written discharge instructions;

2. provide each patient with all supplies deemed medically necessary per the discharge orders, excluding medications;

3. make the follow-up appointment with the physician, when appropriate; and

4. ensure that all patients are informed, either in advance of their surgical procedure or prior to leaving the ASC, of the following:

- a. necessary prescriptions;
- b. post-operative instructions; and
- c. physician contact information for follow-up care.

E. The ASC shall ensure that each patient has a discharge order signed by the physician who performed the surgery or procedure.

F. The ASC shall ensure and document that all patients are discharged in the company of a responsible adult, except those patients exempted by the attending physician. Such exemptions shall be specific and documented for individual patients. Blanket exemptions are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1742 (September 2017).

Subchapter D. Service Delivery

§4549. Surgical Services

A. Surgical services shall be well organized and provided in accordance with current acceptable standards of practice adopted from national associations or organizations.

B. Private areas should include pre- and post-operative care areas and should allow for parental presence for pediatric patients.

C. The ASC shall ensure that the scheduled surgeries do not exceed the capabilities of the surgical center, including the post-anesthesia care area, and any length of patient does not exceed 23 hours from patient admission to discharge from the ASC.

D. At least one RN trained in the use of emergency equipment and certified in advanced cardiac life support (ACLS) and/or pediatric advanced life support (PALS), if a pediatric patient is present, shall be immediately available whenever there is a patient in the ASC.

E. A roster of physicians and other medical practitioners, specifying the surgical privileges of each, shall be kept in the surgical center and available to all professional staff.

F. Medical staff and approved policies shall define which surgical procedures require a qualified first assistant physician, registered nurse or surgical technician.

1. A registered nurse or a surgical technician may be a surgical assistant if the individual:

a. has been approved by the medical director and director of nurses;

b. has documented competency and training to assist in such procedures; and

c. is acting within the scope of practice of his/her respective licensing board(s) and/or certification(s).

G. An operating and procedure room register shall be accurately maintained and kept up-to-date and complete. This register shall be maintained for a five year period. The register shall include, at a minimum, the:

1. patient's complete name;
2. patient's ASC identification number;
3. physician's name;
4. date of the surgery/procedure; and
5. type of surgery/procedure performed.

H. An RN shall be assigned to, and directly responsible for, the post-anesthesia care area. There shall be a sufficient number of nurses assigned to the post-anesthesia care area to meet the nursing needs of patients in recovery. At a minimum, one licensed RN and one direct care staff shall be onsite and available for the length of any patient stay in the ASC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1742 (September 2017).

§4551. Anesthesia Services

A. Anesthesia services shall be available when surgical services are provided.

B. Anesthesia services shall be provided in a well-organized manner under the direction of an anesthesiologist or the treating physician who is licensed and in good standing with the State Board of Medical Examiners.

C. Anesthesia services and/or conscious sedation shall be administered by licensed practitioners with clinical privileges for which they have been licensed, trained and determined to be competent to administer anesthesia and/or conscious sedation in accordance with their respective state licensing board.

D. Anesthesia and conscious sedation may be administered by the following practitioners who are qualified to administer anesthesia under state law and within the scope of their practice:

1. anesthesiologists;
2. doctors of medicine or osteopathy;
3. dentists or oral surgeons;
4. podiatrists;

5. certified registered nurse anesthetists (CRNAs) licensed by the State Board of Nursing who are under the supervision of a physician or an anesthesiologist who is immediately available if needed, as defined in the medical staff bylaws; and

6. registered nurses who have documented education and demonstrated competency to administer minimal or moderate sedation in accordance with the Nurse Practice Act, and who are under the supervision of the treating physician.

a. The RN (non-CRNA) monitoring the patient shall have no additional responsibility that would require leaving the patient unattended or would compromise continuous monitoring during the procedure.

E. The practitioner administering the anesthesia and/or conscious sedation shall be present and immediately available during the post-anesthesia recovery period until the patient is assessed as stable in accordance with the ASC's established criteria.

F. The ASC shall develop policies and procedures which are approved by the governing body including, but not limited to:

1. staff privileges of licensed personnel that administer anesthesia;

2. delineation of pre-anesthesia and post-anesthesia responsibilities;

3. the qualifications, responsibilities and supervision required of all licensed personnel who administer any type or level of anesthesia;

4. patient consent for anesthesia, including the American Society of Anesthesiologists (ASA) physical status classification system;

5. infection control measures;

6. safety practices in all anesthetizing areas;

7. protocol for supportive life functions, e.g., cardiac and respiratory emergencies;

8. reporting requirements;

9. documentation requirements;

10. inspection and maintenance reports on all of the supplies and equipment used to administer anesthesia; and

11. monitoring of trace gases and reporting requirements.

G. Anesthesia policies shall ensure that the following are provided for each patient:

1. a pre-anesthesia evaluation performed and recorded immediately prior to surgery to evaluate the risk of anesthesia and of the procedure to be performed by an individual qualified to administer anesthesia;

2. an intra-operative anesthesia record that records monitoring of the patient during any type or level of anesthesia and documentation of at least the following:

a. prior to induction of any type or level of anesthesia, all anesthesia drugs and equipment to be used have been checked and are immediately available and are determined to be functional by the practitioner who is to administer the anesthetic;

b. dosages of each drug used, including the total dosages of all drugs and agents used;

c. type and amount of all fluid(s) administered, including blood and blood products;

- d. estimated blood loss;
- e. technique(s) used;
- f. unusual events during the anesthesia period;
- g. the status of the patient at the conclusion of any type or level of anesthesia; and

h. a post-anesthesia report written prior to discharge of the patient by the individual who administers the anesthesia or another fully qualified practitioner within the anesthesia department; and

3. policies developed, approved and implemented that define:

- a. minimal, moderate and deep sedation;
- b. the method of determining the sedation status of the patient;
- c. how the sedation is to be carried out;
- d. who is to be present while the patient is under any type or level of anesthesia; and
- e. what body systems are to be monitored and equipment to be used with each type of anesthesia administered.

H. Anesthesia policies and procedures shall be developed and approved for all invasive procedures including, but not limited to:

- 1. percutaneous aspirations and biopsies;
- 2. cardiac and vascular catheterization; and
- 3. endoscopies.

I. The ASC shall adopt an individualized patient identification system for all patients who:

- 1. are administered general, spinal or other types of anesthesia; and
- 2. undergo surgery or other invasive procedures when receiving general, spinal or other major regional anesthesia and/or intravenous, intramuscular or inhalation sedation/analgesia, including conscious sedation that, in the manner used in the ASC, may result in the loss of the patient's protective reflexes.

J. The ASC shall develop, approve and implement policies and procedures to ensure that the following requirements are met for each patient undergoing:

- 1. general anesthesia/total intravenous anesthesia:
 - a. the use of an anesthesia machine that provides the availability and use of safety devices including, but not limited to:
 - i. an oxygen analyzer;
 - ii. a pressure and disconnect alarm;
 - iii. a pin-index safety system;
 - iv. a gas-scavenging system; and
 - v. an oxygen pressure interlock system;
 - b. continuous monitoring of the patient's temperature and vital signs, as well as the continuous use of:
 - i. an electrocardiogram (EKG/ECG);
 - ii. a pulse oximetry monitor; and
 - iii. an end tidal carbon dioxide volume monitor;
- 2. monitored anesthesia care (MAC):
 - a. monitored anesthesia care includes the monitoring of the patient by an anesthesiologist and/or a CRNA. Indications for MAC depend on the nature of the procedure, the patient's clinical condition, and/or the potential need to convert to a general or regional anesthetic. Deep sedation/analgesia is included in MAC;

b. equipment sufficient to maintain the patient's airway and ventilatory function shall be immediately available and in the OR/procedure room where the procedure is being performed;

c. continuous monitoring of the patient's vital signs and temperature as well as continuous use of an EKG/ECG and pulse oximetry monitor; and

d. monitoring by the licensed practitioner who administers the anesthetic;

3. conscious sedation:

a. policies and procedures shall be developed, approved, and implemented by the medical staff as to the need for pre-operative cardiac and pulmonary assessments of patients prior to being administered conscious sedation; and

b. there shall be a minimum requirement of a registered nurse to continuously monitor the patient who is receiving conscious sedation;

4. regional anesthesia (major nerve blocks):

a. equipment sufficient to maintain the patient's airway and to convert the case to another form of anesthesia shall be immediately available and in the operating/procedure room where the procedure is being performed;

b. continuous monitoring of the patient's vital signs and temperature, as well as the continuous use of an EKG/ECG and pulse oximetry monitor;

c. monitoring by the licensed practitioner who administers the regional anesthetic;

5. local anesthesia (infiltration or topical):

a. continuous monitoring of the patient's vital signs and temperature as well as the continuous use of an EKG/ECG and pulse oximetry monitor; and

b. local anesthesia, interpreted to mean those anesthetizing agents administered and affecting a very small localized area that may be administered by the treating physician.

K. The ASC shall develop, approve and implement policies and procedures regarding qualifications and duties of all licensed personnel who administer any type or level of anesthesia.

L. Policies and procedures shall be developed, approved and implemented in accordance with manufacturer's guidelines for the equipment and medications to be used to administer any level or type of anesthesia.

M. Policies and procedures shall be developed, approved, and implemented as stipulated under the current state licensing boards for patients undergoing any level or type of anesthesia sedation. The patient under sedation shall be monitored for blood pressure, respiratory rate, oxygen saturation, cardiac rate and rhythm and level of consciousness. This information shall be recorded at least every five minutes during the therapeutic, diagnostic or surgical procedure and, at a minimum, every 15 minutes during the recovery period or more frequently as deemed appropriate by the authorized prescriber.

N. The ASC shall define in policy and procedures whether the use of reversal agents is to be considered an adverse patient event.

O. The patient shall be kept in the recovery room until assessed by a qualified anesthesia professional as being stable in accordance with the ASCs established criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1743 (September 2017).

§4553. Radiology Services

A. All ASCs shall provide radiology services commensurate with the needs of the ASC and to meet the needs of the patients being served.

B. The scope and complexity of radiological services provided within the ASC, either directly or under arrangement, as an integral part of the ASC's services should be specified in writing and approved by the governing body.

C. The ASC is equally responsible for the compliance of radiological services performed in the ASC, regardless of whether the service is provided directly by the ASC or under arrangement.

D. Radiological determinations made by the physician within 72 hours prior to admission shall be acceptable if documented by the physician on the patient's medical record and the determinations conform to the medical staff bylaws and rules and regulations of the center.

E. All radiological determinations shall be in writing and the original shall be a part of the patient's chart.

F. When radiology services are provided by the ASC directly, at a minimum, the following criteria shall be met.

1. The ASC shall comply with periodic inspections of equipment and testing for radiation hazards, and shall promptly correct any identified problems.

2. Radiologic services shall be provided in an area of sufficient size and arrangement to provide for the safety of personnel and patients.

3. Supervision of radiologic services should be appropriate to the types of procedures conducted by the ASC.

4. The ASC governing body is responsible for the oversight and accountability for the quality assessment and performance improvement program, and is responsible for ensuring that all policies and services provide quality healthcare in a safe environment.

5. The governing body is responsible for determining if any procedures, now or in the future, require additional review by a radiologist.

6. The governing body is accountable for the medical staff to ensure that such staff members are legally and professionally qualified for the positions to which they are appointed and for the performance of the privileges granted.

7. The treating physician is expected to demonstrate documented competency in using imaging as an integral part of the surgery or procedure.

8. A licensed practitioner who is qualified by education and experience in accordance with state law, rules and regulations and in accordance with ASC policy shall supervise the provision of radiologic services.

a. For purposes of this Section, a *licensed practitioner* means a person licensed to practice medicine, dentistry, podiatry, chiropractic or osteopathy in this state, or an advanced practice registered nurse licensed to practice in this state.

9. Radiologic reports shall be signed by the licensed medical practitioner who reads and interprets the reports.

10. The ASC shall adopt written policies and procedures to ensure that radiologic services are rendered in

a manner which provides for the safety and health of patients and ASC personnel. At a minimum, the policies and procedures shall cover the following:

a. shielding for patients and personnel;

b. storage, use and disposal of radioactive materials;

c. documented periodic inspection of equipment and handling of identified hazards;

d. documented periodic checks by exposure meters or test badges on all personnel working around radiological equipment which shall also include knowledge of exposure readings at other places of employment;

e. managing medical emergencies in the radiologic department; and

f. methods for identifying pregnant patients.

11. Only personnel who are registered and/or licensed in the appropriate radiologic technology modality or category by the state Radiologic Technology Board of Examiners and designated as qualified by the medical staff may use the radiologic equipment and administer procedures under the direction of a physician

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1743 (September 2017).

§4555. Laboratory Services

A. The ASC shall either provide a clinical laboratory directly or make contractual arrangements with a laboratory certified in accordance with the clinical laboratory improvement amendments to perform services commensurate with the needs of the ASC.

B. Contractual arrangements for laboratory services shall be deemed as meeting the requirements of this Section when those arrangements contain written policies and procedures defining the scope of services.

C. When laboratory services are provided directly by the ASC, the services shall be performed by a qualified and/or licensed person with documented training and experience to supervise and perform the testing.

1. The ASC shall have sufficient numbers of licensed clinical laboratory and supportive technical staff to perform the required tests.

2. The laboratory shall be of sufficient size and adequately equipped to perform the necessary services of the ASC.

D. Written laboratory policies and procedures shall be developed and implemented for all laboratory services provided directly by the center and/or by contractual arrangement. Policies shall define "stat" labs and the timelines for processing and reporting "stat" labs.

E. Written reports of all ASC performed and contractually performed lab results shall be made a part of the patient's medical record.

F. Documentation shall be maintained for preventive maintenance and quality control programs governing all types of analyses performed in the laboratory.

G. The ASC shall make provisions for the immediate pathological examination of tissue specimens by a pathologist, if applicable. The pathology report shall be made part of the patient's medical record.

H. Handling of Blood and Blood Products

1. Written policies and procedures shall be developed, approved by the governing body and implemented by the

ASC, relative to the administration of blood and blood products as well as any medical treatment and notification of the treating physician in the event of an adverse reaction.

2. If the treating physician determines that blood and blood products shall be administered, the ASC shall provide for the procurement, safekeeping and transfusion of the blood and blood products so that it is readily available.

3. The administration of blood shall be monitored by the registered nurse to detect any adverse reaction. Prompt investigation of the cause of an adverse reaction shall be instituted and reported according to ASC policy and procedures.

4. If the ASC regularly uses the services of an outside blood bank, the ASC shall have a written agreement with the blood bank whereby the ASC is promptly notified by the blood bank of blood or blood products that have been determined at increased risk of transmitting infectious disease.

5. The ASC shall have a system in place which is defined in a "look back" policy and procedure for appropriate action to take when notified that blood or blood products that the ASC has received are at increased risk of transmitting infectious disease. The look back policy shall include, but not be limited to:

- a. quarantine of the contaminated products;
- b. documented notification to the patient or legal representative and the patient's physician; and
- c. the safe and sanitary disposal of blood and blood products not suitable for distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1745 (September 2017).

§4557. Pharmaceutical Services

A. The ASC shall provide pharmacy services commensurate with the needs of the patients and in conformity with state and federal laws. Pharmacy services may be provided directly by the ASC or under a contractual agreement as long as all regulatory requirements are met.

1. At a minimum, the ASC shall designate a qualified and licensed healthcare professional to provide direction to the ASC's pharmaceutical service.

B. All ASCs shall have a controlled dangerous substance license issued by the Board of Pharmacy and a Drug Enforcement Agency (DEA) license allowing for the ordering, storage, dispensing and delivery of controlled substances to patients.

C. Drugs and biologicals shall be provided safely and in an effective manner, consistent with accepted professional standards of pharmaceutical practice.

D. When the ASC provides pharmaceutical services, there shall be a current permit issued by the Board of Pharmacy.

E. The designated licensed healthcare professional responsible for pharmaceutical services shall maintain complete, current and accurate records of all drug transactions by the pharmacy.

1. Current and accurate records shall be maintained on the receipt, distribution, dispensing and/or destruction of all scheduled drugs in such a manner as to facilitate complete accounting for the handling of these controlled substances.

F. Dispensing of prescription legend or controlled substance drugs directly to the public or patient by vending machines is prohibited.

G. Medications are to be dispensed only upon written or verbal orders from a licensed medical practitioner. All verbal orders shall be taken by a licensed medical professional.

H. The designated licensed healthcare professional responsible for pharmaceutical services shall assist the center in the development of policies and procedures to:

1. address the distribution, storage and handling of drugs;
2. monitor drug and medication-related activities; and
3. immediately notify the director of nurses to return drugs to the pharmacy or contracted pharmacist for proper disposition in the event of a drug recall.

I. The designated licensed healthcare professional responsible for pharmaceutical services shall assist the ASC with drug administration errors, adverse drug reactions and incompatibilities of medications, and shall report data relative to these issues to the quality assessment performance improvement committee.

J. The designated licensed healthcare professional responsible for pharmaceutical services shall assist the ASC in developing a formulary of medications that will be available for immediate patient use.

K. The designated licensed healthcare professional responsible for pharmaceutical services shall ensure that medication and supplies are on-site at all times and immediately available for the management of malignant hyperthermia, where applicable, based upon the type and level of anesthesia delivered and all other anesthesia-related complications.

L. The consultant pharmacist shall provide consultation to the ASC on an as needed basis and consistent with provisions of the state Board of Pharmacy. The consultations shall be documented in writing showing the date, amount of time spent, subjects reviewed and recommendations made.

M. All drug errors, adverse drug reactions and incompatibilities of medications shall be entered into the patient's medical record and reported according to federal and state laws and per ASC policy and procedure.

N. The ASC shall provide for a drug administration storage area which allows for the proper storage, safeguarding and distribution of drugs. All drug cabinets or drug storage areas at the nursing station(s) are to be constructed and organized to ensure proper handling and safeguard against access and removal by unauthorized personnel. All drug cabinets or drug storage areas are to be kept clean, in good repair and are to be inspected each month by a designated licensed healthcare professional responsible for pharmaceutical services. Compartments appropriately marked shall be provided for the storage of poisons and external use drugs and biological, separate from internal and injectable medications.

O. All drug storage areas shall have proper controls for ventilation, lighting and temperature. Proper documentation shall be maintained relative to routine monitoring of temperature controls.

P. Drugs and biologicals that require temperature controlled refrigeration shall be refrigerated separately from food, beverages, blood and laboratory specimens.

Q. Locked areas that maintain medications, including controlled substances, shall conform to state and federal laws and the ASC's policies and procedures.

R. Unit dose systems shall include on each unit dose the:

1. name of the drug;
2. strength of the drug;
3. lot and control number or equivalent; and
4. expiration date.

S. Outdated, mislabeled or otherwise unusable drugs and biologicals shall:

1. be separated from useable stock;
2. not be available for patient use or other use; and
3. be returned to an authorized agency for credit or destroyed according to current state and/or federal laws as applicable.

T. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the chief executive officer or administrator, the director of nurses, the Board of Pharmacy, and to the Regional DEA office, and according to ASC policy and procedure.

U. Any medications administered to a patient shall be administered only as ordered by a licensed medical practitioner and shall have documentation entered into the patient's medical record of the name of the drug, amount, route, the date and time administered, response and/or any adverse reactions to medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1746 (September 2017).

§4559. Stereotactic Radiosurgery Services

A. Ambulatory surgical centers operated primarily for the purpose of offering stereotactic radiosurgery by use of a gamma knife or similar neurosurgical tool are exempt from the following requirements:

1. having a minimum of two operating/procedure rooms and one post-anesthesia recovery room within the ASC;
2. caseload shall not exceed the capabilities of the surgical center including the recovery room;
3. the surgical area shall be located within the facility as to be removed from the general lines of traffic of both visitors and other ASC personnel; and
4. the following requirements:
 - a. scrub station(s) shall be provided directly adjacent to the entrance to each operating or procedure room;
 - b. a scrub station may serve two operating or procedure rooms if it is located directly adjacent to the entrances to both; and
 - c. scrub stations shall be arranged to minimize splatter on nearby personnel or supply carts.

B. The aforementioned exemptions do not apply to ASCs performing surgical procedures in conjunction with stereotactic radiosurgery.

C. These facilities shall be responsible for compliance with these licensing standards and any applicable state and federal laws, rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1747 (September 2017).

Subchapter E. Facility Responsibilities

§4565. General Provisions

A. Ambulatory surgical centers shall comply and show proof of compliance with all relevant federal, state, local rules and regulations. It is the ASC's responsibility to secure the necessary approvals from the following entities:

1. Health Standards Section;
2. Office of the State Fire Marshal's plan review;
3. Office of Public Health;
4. Office of the State Fire Marshal's *Life Safety Code* inspection; and
5. the applicable local governing authority (e.g., zoning, building department or permit office).

B. The administrator or person authorized to act on behalf of the administrator shall be accessible to ASC staff or designated representatives of the department any time there is a patient in the ASC.

C. An ASC shall have qualified staff sufficient in number to meet the needs of patients and to ensure provision of services.

D. The ASC shall develop and maintain documentation of an orientation program for all employees of sufficient scope and duration to inform the individual about his/her responsibilities, how to fulfill them, review of policies and procedures, job descriptions, competency evaluations and performance expectations. An orientation program and documented competency evaluation and/or job expectations of assigned or reassigned duties shall be conducted prior to any assignments or reassignments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1747 (September 2017).

§4567. Staffing Requirements

A. Administrative Staff. The following administrative staff is required for all ASCs:

1. a qualified administrator at each licensed geographic location who shall meet the qualifications as established in these provisions;
2. other administrative staff as necessary to operate the ASC and to properly safeguard the health, safety and welfare of the patients receiving services; and
3. an administrative staff person on-call after routine daytime or office hours for the length of any patient stay in the ASC.

B. Administrator/Director

1. Each ASC shall have a qualified administrator/director who is an on-site employee responsible for the day-to-day management, supervision and operation of the ASC.

2. Any current administrator employed by a licensed and certified ASC, at the time these licensing provisions are adopted and become effective, shall be deemed to meet the qualifications of the position of administrator as long as the individual holds his/her current position. If the individual leaves his/her current position, he/she shall be required to meet the qualifications stated in these licensing provisions to be re-employed into such a position.

3. The administrator shall meet the following qualifications:

a. possess a college degree from an accredited university; and

b. have one year of previous work experience involving administrative duties in a healthcare facility.

4. An RN shall meet the following qualifications to hold the position of administrator:

a. maintain a current and unrestricted RN license; and

b. have at least one year of management experience in a healthcare facility.

5. Changes in administrator shall be reported to the department within 10 days.

C. Medical Staff

1. The ASC shall have an organized medical staff, including any licensed medical practitioners who practice under a use agreement with the ASC.

2. All medical staff shall be accountable to the governing body for the quality of all medical and surgical care provided to patients and for the ethical and professional practices of its members.

3. Members of the medical staff shall be legally and professionally qualified for the positions to which they are appointed and for the performance of privileges granted.

4. The medical staff shall develop, adopt, implement and monitor bylaws and rules for self-governing of the professional activity of its members. The medical staff bylaws shall be maintained within the ASC. The bylaws and rules shall contain provisions for at least the following:

a. developing the structure of the medical staff, including allied health professionals and categories of membership;

b. developing, implementing and monitoring to review credentials, at least every two years, and to delineate and recommend approval for individual privileges;

c. developing, implementing and monitoring to ensure that all medical staff possess current and unrestricted Louisiana licenses and that each member of the medical staff is in good standing with his/her respective licensing board;

d. recommendations to the governing body for membership to the medical staff with initial appointments and reappointments not to exceed two years;

e. developing, implementing and monitoring for suspension and/or termination of membership to the medical staff;

f. developing, implementing and monitoring criteria and frequency for review and evaluation of past performance of its individual members. This process shall include monitoring and evaluation of the quality of patient care provided by each individual;

g. the election of officers for the ensuing year;

h. the appointment of committees as deemed appropriate; and

i. reviewing and making recommendations for revisions to all policy and procedures at least annually.

5. Medical staff shall meet at least semi-annually. One of these meetings shall be designated as the official annual meeting. A record of attendance and minutes of all medical staff meetings shall be maintained within the ASC.

6. A physician shall remain within the ASC until all patients have reacted and are assessed as stable.

7. The patient's attending physician, or designated on-call physician, shall be available by phone for consultation and evaluation of the patient, and available to be onsite if needed, until the patient is discharged from the ASC.

8. Each patient admitted to the ASC shall be under the professional supervision of a member of the ASC's medical staff who shall assess, supervise and evaluate the care of the patient.

9. Credentialing files for each staff physician shall be kept current and maintained within the ASC at all times.

D. Nursing Staff. A staffing pattern shall be developed for each nursing care unit (preoperative unit, operating/procedure rooms, post anesthesia recovery area). The staffing pattern shall provide for sufficient nursing personnel and for adequate supervision and direction by registered nurses consistent with the size and complexity of the procedure(s) performed and throughout the length of any patient stay in the ASC.

1. Nursing services shall be under the direction of an RN that includes a plan of administrative authority with written delineation of responsibilities and duties for each category of nursing personnel.

2. The ASC shall ensure that the nursing service is directed under the leadership of a qualified RN. The ASC shall have documentation that it has designated an RN to direct nursing services.

3. The director of nursing (DON) shall:

a. have a current, unrestricted Louisiana RN license;

b. be in good standing with the State Board of Nursing; and

c. shall have a minimum of one year administrative experience in a health care setting and the knowledge, skills and experience consistent with the complexity and scope of surgical services provided by the ASC.

4. The RN holding dual administrative/nursing director roles shall meet the qualifications of each role.

5. Changes in the director of nursing position shall be reported in writing to the department within 10 days of the change on the appropriate form designated by the department.

6. Nursing care policies and procedures shall be in writing, formally approved, reviewed annually and revised as needed, and consistent with accepted nursing standards of practice. Policies and procedures shall be developed, implemented and monitored for all nursing service procedures.

7. There shall be a sufficient number of duly licensed registered nurses on duty at all times to plan, assign, supervise and evaluate nursing care, as well as to give patients the high quality nursing care that requires the judgment and specialized skills of a registered nurse.

a. There shall be sufficient nursing staff with the appropriate qualifications to assure ongoing assessment of patients' needs for nursing care and that these identified needs are addressed. The number and types of nursing staff is determined by the volume and types of surgery the ASC performs.

8. All professional nurses employed, contracted or working under a use agreement with the ASC shall have a current, unrestricted and valid Louisiana nursing license. Nonprofessional or unlicensed personnel employed,

contracted, or working under a use agreement and performing nursing services shall be under the supervision of a licensed registered nurse.

9. There shall be, at minimum, one RN with ACLS certification and, at minimum, one RN with PALS certification, if a pediatric population is served, on duty and immediately available at any time there is a patient in the ASC.

10. The RN who supervises the surgical center shall have documented education and competency in the management of surgical services.

11. A formalized program on in-service training shall be developed and implemented for all categories of nursing personnel, employed or contracted, and shall include contracted employees and those working under a use agreement. Training is required on a quarterly basis related to required job skills.

a. Documentation of such in-service training shall be maintained on-site in the ASC's files. Documentation shall include the:

- i. training content;
- ii. date and time of the training;
- iii. names and signatures of personnel in attendance; and
- iv. name of the presenter(s).

12. General staffing provisions for the OR/procedure rooms shall be the following.

a. Circulating duties for each surgical procedure and for any pediatric procedure shall be performed by a licensed RN. The RN shall be assigned as the circulating nurse for one patient at a time for the duration of any surgical procedure performed in the center.

b. Appropriately trained licensed practical nurses (LPNs) and operating/procedure room technicians may perform scrub functions under the supervision of a licensed registered nurse.

c. Staffing for any nonsurgical, endoscopic procedure shall be based upon the level of sedation being provided to the adult patient, the complexity of the procedure, and the assessment of the patient. The role and scope of the nurses staffing the procedure rooms shall be in accordance with the Nurse Practice Act and nursing staff shall only perform duties that are in accordance with the applicable requirements for such personnel set forth in the Nurse Practice Act. A physician shall be required to complete a pre-procedural assessment to determine the suitability of the patient for the planned level of sedation. Depending upon the level of sedation deemed appropriate and administered, at a minimum, the following staffing levels shall be utilized for each nonsurgical, endoscopic procedure.

i. Patient is Unsedated. The OR/procedure room shall be staffed with a single assistant who may be an RN, licensed practical nurse (LPN) or unlicensed assistive personnel (UAP).

ii. Patient Receives Moderate/Conscious Sedation. With moderate/conscious sedation, a single RN may administer the sedation under physician supervision, and such RN may assist only with minor, interruptible technical portions or tasks of the procedure. In accordance with the LSBN, the RN monitoring the patient shall have no additional responsibility that would require leaving the

patient unattended or that would compromise continuous monitoring during the procedure.

iii. Complex Endoscopy Procedure (with or without sedation). For any complex endoscopy procedure (e.g. ERCP, EUS/FNA, etc.), there shall be an RN in the operating/procedure room to continuously monitor the patient, and a second RN, LPN or UAP to provide technical assistance to the physician.

NOTE: For purposes of §4567.D.12.c.i-iii, a reference to RN may be substituted by a CRNA or advanced practiced registered nurse. Said nursing staff shall have documentation of knowledge, skills, training, ability and competency of assigned tasks.

iv. Deep Sedation. This level requires a CRNA or anesthesiologist to administer the deep sedation and to monitor the patient. There shall be a second staff person (RN, LPN or UAP) dedicated to provide technical assistance for the endoscopy procedure.

NOTE: At any level of staffing for the nonsurgical, endoscopic procedure described above, if an LPN or UAP is the assigned staff providing assistance, in addition to such LPN or UAP assigned staff in the operating/procedure room, an RN shall be immediately available in the ASC to provide emergency assistance. That RN shall not be assigned to a non-interruptible task during the duration of the procedure.

13. Post-Surgical Care Area. There shall be an RN whose sole responsibility is the post-surgical care of the patient. There shall be at least one other member of the nursing staff in the post-surgical care area(s) onsite and continually available to assist the post-surgical care RN until all patients have been discharged from the ASC.

E. General Personnel Requirements

1. All physicians and ASC employees, including contracted personnel and personnel practicing under a use agreement, shall meet and comply with these personnel requirements.

2. All physicians and ASC employees, including contracted personnel and personnel practicing under a use agreement, prior to and at the time of employment and annually thereafter, shall be verified to be free of tuberculosis in a communicable state in accordance with the ASC's policies and procedures and current Centers for Disease Control (CDC) and OPH recommendations.

3. All unlicensed staff involved in direct patient care and/or services shall be supervised by a qualified professional employee or staff member.

4. A personnel file shall be maintained within the ASC on every employee, including contracted employees and personnel providing services under a use agreement. Policies and procedures shall be developed to determine the contents of each personnel file. At a minimum, all personnel files shall include the following:

- a. an application;
- b. current verification of professional licensure;
- c. health care screenings as defined by the ASC;
- d. orientation and competency verification;
- e. annual performance evaluations;
- f. criminal background checks for UAPs, prior to offer of direct or contract employment after the effective date of this Rule, as applicable and in accordance with state law. The criminal background check shall be conducted by the Louisiana State Police or its authorized agent; and
- g. any other screenings required of new applicants by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1747 (September 2017).

§4569. Medical Records

A. Each ASC shall make provisions for securing medical records of all media types, whether stored electronically or in paper form. The identified area or equipment shall be secured to maintain confidentiality of records and shall be restricted to staff movement and remote from treatment and public areas.

B. All records shall be protected from loss or damage.

C. The ASC shall have a designated area located within the ASC which shall provide for the proper storage, protection and security for all medical records and documents.

D. The ASC shall develop a unique medical record for each patient. Records may exist in hard copy, electronic format or a combination thereof.

E. ASCs that enter into a use agreement shall integrate the medical records of patients into the medical records of the ASC and shall comply with all requirements of this Section.

F. The ASC shall ensure the confidentiality of patient records, including information in a computerized medical record system, in accordance with the Health Insurance Portability and Accountability Act (HIPAA) regulations and any state laws, rules and regulations.

1. If computerized records are used, the ASC shall develop:

- a. a back-up system for retrieval of critical medical records;
- b. safeguards/firewalls to prevent unauthorized use and access to information; and
- c. safeguards/firewalls to prevent alterations of electronic records.

G. A unique medical record shall be maintained for every patient admitted and/or treated.

H. The medical record cannot become part of any other medical record associated with another entity.

I. The following data shall be documented and included as part of each patient's basic medical record:

1. unique patient identification;
2. admission and discharge date(s) and times;
3. medical and social history;
4. physical examination notes in accordance with medical staff bylaws, policies and procedures;
5. chief complaint or diagnosis;
6. physician's orders;
7. clinical laboratory report(s);
8. pathology report(s), when appropriate;
9. radiological report(s), when appropriate;
10. consultation report(s), when appropriate;
11. medical and surgical treatment regimen;
12. physician progress notes;
13. nurses' records of care provided and medications administered;
14. authorizations, consents or releases;
15. operative report;
16. anesthesia record to include, but not limited to:
 - a. type of anesthesia used;
 - b. medication administered;

- c. person administering the anesthesia; and
- d. post-anesthesia report;

17. name of the treating physician(s), names of surgical assistants, and nursing personnel (scrub and circulator(s));

18. start and end time of the surgery/procedure;

19. a current informed consent for surgery/procedure and anesthesia that includes the following:

- a. name of the patient;
- b. patient identification number;
- c. name of the procedure or operation being performed;
- d. reasonable and foreseeable risks and benefits;
- e. name of the licensed medical practitioner(s) who will perform the procedure or operation;
- f. signature of patient or legal guardian or individual designated as having power of attorney for medical decisions on behalf of the patient;
- g. date and time the consent was obtained; and
- h. signature and professional discipline of the person witnessing the consent;

20. special procedures report(s);

21. patient education and discharge instructions;

22. a discharge summary, including:

- a. physician progress notes and discharge notes; and
23. a copy of the death certificate and autopsy findings, when appropriate.

J. The medical records shall be under the custody of the ASC and maintained in its original, electronic, microfilmed or similarly reproduced form for a minimum period of 10 years from the date a patient is discharged, pursuant to R.S. 40:2144(F)(1). The ASC shall provide a means to view or reproduce the record in whatever format it is stored.

K. Medical records may be removed from the premises for computerized scanning for the purpose of storage. Contracts entered into, for the specific purpose of scanning at a location other than the ASC, shall include provisions addressing how:

1. the medical record shall be secured from loss or theft or destruction by water, fire, etc.; and
2. confidentiality shall be maintained.

L. Medical records may be stored off-site provided:

1. the confidentiality and security of the medical records are maintained; and
2. a 12-month period has lapsed since the patient was last treated in the ASC.

M. Each clinical entry and all orders shall be signed by the physician, and shall include the date and time. Clinical entries and any observations made by nursing personnel shall be signed by the licensed nurse and shall include the date and time.

1. If electronic signatures are used, the ASC shall develop a procedure to assure the confidentiality of each electronic signature, and shall prohibit the improper or unauthorized use of any computer-generated signature.

2. Signature stamps shall not be used.

N. All pertinent observations, treatments and medications given to a patient shall be entered in the nurses' notes as part of the medical record. All other notes relative to specific instructions from the physician shall be recorded.

O. Completion of the medical record shall be the responsibility of the admitting physician within 30 days of patient discharge.

P. All hardcopy entries into the medical record shall be legible and accurately written in ink. The recording person shall sign the entry to the record and include the date and time of entry. If a computerized medical records system is used, all entries shall be authenticated, dated and timed, complete, properly filed and retained, accessible and reproducible.

Q. Written orders signed by a member of the medical staff shall be required for all medications and treatments administered to patients, and shall include the date and time ordered. Verbal orders shall include read-back verification. All verbal orders shall be authenticated by the ordering physician within 48 hours to include the signature of the ordering physician, date and time.

R. The use of standing orders shall be approved by the medical staff, and the standing orders shall be individualized for each patient. Standing orders shall be approved for use by the medical staff on a yearly basis. If standing orders are utilized, the standing orders shall become part of the medical record and include the patient's name, date of surgery and shall be authenticated by the ordering physician's signature, date and time. Any changes to the pre-printed orders shall be initialed by the physician making the entry or change to the pre-printed form. The changes shall be legible, noted in ink (if hard copy), and shall include the date and time.

1. Range orders are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1750 (September 2017).

§4571. Other Records and Reports

A. The following indexes, records and registers shall be required of the licensed ASC, including any individual or entity that enters into a use agreement:

1. a patient's register;
2. an operating/procedure room register;
3. a death register;
4. a daily census report of admissions and discharges;
5. records of reportable diseases as required by state and/or federal regulations;
6. a laboratory log denoting laboratory specimens that are sent to pathology:
 - a. the laboratory log shall include, at a minimum, the following information:
 - i. the patient's name;
 - ii. the specimen site; and
 - iii. the date the specimen was sent for pathology interpretation; and
7. an implant log, when appropriate.

B. Other statistical information shall be maintained to expedite data gathering for specialized studies and audits.

C. Nothing in this Chapter is intended to preclude the use of automated or centralized computer systems or any other techniques provided the regulations stated herein are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1751 (September 2017).

§4573. Quality Assurance and Performance Improvement

A. The governing body shall ensure that there is an implemented, maintained, effective, written, data-driven and ongoing program designed to assess and improve the quality of patient care. This program shall include all services, provided directly or through contract, and those services provided under a use agreement, where applicable.

B. The governing body shall ensure that it allocates sufficient staff, time, information systems and training to implement the Quality Assurance and Performance Improvement (QAPI) Program.

C. The ASC shall ensure there is a written quality assurance plan for assessing and improving quality of care that is focused on high risk, high volume and problem-prone areas, and which specifies the intervals that the ASC shall actively collect data related to the quality indicators. Performance improvement activities shall consider incidence, prevalence and severity of problems and those that can affect health outcomes, patient safety and quality of care. The plan shall describe the system for overseeing and analyzing the effectiveness of monitoring, evaluation and sustained improvement activities. All services related to patient care, including services furnished by a contractor or under a use agreement, shall be evaluated.

D. Nosocomial infections, patient care outcomes, surgical services and other invasive procedures performed in the ASC shall be evaluated as they relate to appropriateness of diagnosis and treatment.

E. The services provided by each licensed practitioner with ASC privileges shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness and in accordance with medical staff bylaws/rules and regulations.

F. Quality assurance and performance improvement shall include monitoring of in-line gases.

G. The QAPI program shall monitor, identify and develop a plan for elimination of medication errors and adverse patient events.

H. Corrective actions to problems identified through the QAPI program with on-going monitoring for sustained corrective action shall be documented. All QAPI data shall be documented and remain within the ASC. Staff education and training related to the correction of problems shall be documented.

I. The number and scope of distinct QAPI improvement projects conducted annually shall reflect the scope and complexity of the ASC's services and operations.

J. The ASC shall document the projects that are being conducted. The documentation, at a minimum, shall include:

1. the reason(s) for implementing the project; and
2. a description of the project's results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1751 (September 2017).

Subchapter F. Safety, Sanitization and Emergency Preparedness

§4575. General Provisions

A. The ASC shall have policies and procedures, approved and implemented by the medical staff and governing body, that address provisions for:

1. sanitizing, disinfecting and sterilizing supplies, equipment and utensils; and
2. the safe use of cleaning supplies and solutions that are to be used and the directions for use, including:
 - a. terminal cleaning of the OR/procedure rooms; and
 - b. cleaning of the OR/procedure rooms between surgical and nonsurgical procedures.

B. Policies and procedures shall be developed, implemented and approved by the ASC's governing body for the types and numbers of sterilizing equipment and autoclaves sufficient to meet the surgical sterilization needs of the ASC.

1. Procedures for the proper use of sterilizing equipment for the processing of various materials and supplies shall be in writing, according to manufacturer's recommendations, and readily available to personnel responsible for the sterilizing process.

2. All sterilization monitoring logs shall be maintained within the ASC for a minimum of 18 months.

C. All steam sterilizing equipment shall have live bacteriological spore monitoring performed at a frequency according to the manufacturer's instructions.

1. If tests are positive, a system shall be in place to recall supplies that have tested substandard in accordance with the ASC's policies and procedures set forth by the ASC's governing body.

D. All ethylene oxide sterilizing equipment shall have live bacteriological spore monitoring performed with each load and according to manufacturer's recommendation. There shall be ventilation of the room used for this sterilization to the outside atmosphere. There shall be a system in place to monitor trace gases of ethylene oxide with a working alert system which is tested and documented daily.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1752 (September 2017).

§4577. Infection Control

A. The ASC shall maintain an infection control program that minimizes infections and communicable diseases through prevention, investigation and reporting of infections. This program shall include all contracted services and those services provided under a use agreement.

B. The ASC shall provide a functional and sanitary environment for the provision of surgical or endoscopy services, if provided, by adopting and adhering to professionally accepted standards of practice. The ASC shall have documentation that the infection control program was considered, selected and implemented based on nationally recognized infection control guidelines.

C. The infection control program shall be under the direction of a designated and qualified professional. The ASC shall determine that the individual selected to lead the infection control program has had documented training in the principles and methods of infection control. The individual shall maintain his/her qualifications through ongoing education and training, which can be demonstrated by participation in infection control courses or in local and national meetings organized by a nationally recognized professional infection control society.

D. The ASC shall develop, with the approval of the medical director and the governing body, policies and procedures for preventing, identifying, reporting, investigating, controlling and immediately implementing corrective actions relative to infections and communicable diseases of patients and personnel. At a minimum, the policies shall address:

1. hand sanitizers and hand hygiene;
2. use of all types of gloves;
3. surgical scrub procedures;
4. linen cleaning and reuse;
5. waste management;
6. environmental cleaning;
7. reporting, investigating and monitoring of surgical infections;
8. sterilization and cleaning procedures and processes;
9. single use devices;
10. disinfecting procedures and processes;
11. breaches of infection control practices; and
12. utilization of clean and dirty utility areas.

E. The ASC shall have policies and procedures developed and implemented which require immediate reporting, according to the latest criteria established by the Centers for Disease Control, Office of Public Health and the Occupational Safety and Health Administration (OSHA), of the suspected or confirmed diagnosis of a communicable disease.

F. The ASC shall maintain an infection control log of incidents related to infections. The log is to be maintained within the ASC for a minimum of 18 months.

G. Any employee with a personal potentially contagious/ or infectious illness shall report to his/her immediate supervisor and/or director of nursing for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other patients or personnel.

1. Employees with symptoms of illness that have the potential of being potentially contagious or infectious (i.e. diarrhea, skin lesions, respiratory symptoms, infections, etc.) shall be either evaluated by a physician and/or restricted from working with patients during the infectious stage.

H. Provisions for isolation of patients with a communicable or contagious disease shall be developed and implemented according to ASC policy and procedure.

I. Provisions for transfer of patients from the ASC shall be developed and implemented according to ASC policy and procedure.

J. The ASC shall develop a system by which potential complications/infections that develop after discharge of a patient from the ASC are reported, investigated and monitored by the infection control officer.

K. Procedures for isolation techniques shall be written and implemented when applicable.

L. The ASC shall have a written and implemented waste management program that identifies and controls wastes and hazardous materials to prevent contamination and the spread of infection within the ASC. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials and the safe handling of these materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1752 (September 2017).

§4579. Laundry Handling and Sanitation

A. The ASC shall be responsible for ensuring the proper handling, cleaning, sanitizing and storage of linen and other washable goods whether provided by the ASC or provided by a contracted vendor. All linen used in the ASC shall be of sufficient quantity to meet the needs of the patients.

B. Laundry services shall be provided either in-house or through a contracted commercial laundry service in accordance with the ASC's policies and procedures as set forth by the governing body.

1. Contracted Laundry Service

a. If laundry service is contracted, the ASC shall assess the cleaning and sanitizing processes that are used by the commercial laundry service.

2. In-House Laundry Service

a. If laundry services are provided in-house, policies and procedures shall be developed which follow manufacturer's recommended guidelines for water temperature, the method for cleaning and sanitizing reusable laundry and the type of cleaning products utilized to prevent the transmission of infection through the ASC's multi-use of these washable goods.

b. The water temperature shall be monitored and documented on a daily use log and maintained for a minimum of 18 months.

C. Procedures shall be developed for the proper handling and distribution of linens to minimize microbial contamination from surface contact or airborne deposition.

D. Cross contamination of clean and dirty linen shall be prevented. Provisions shall be made for the separation of clean and soiled linen. All contaminated laundry shall be handled according to the ASC's written protocols in accordance with current applicable OSHA and CDC guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1753 (September 2017).

§4581. Emergency Preparedness and Emergency Procedures

A. Disaster and emergency plans shall be developed by the governing body, and updated annually, which are based on a risk assessment using an all hazards approach for both internal and external occurrences. Disaster and emergency plans shall include provisions for persons with disabilities.

B. The ASC shall develop and implement policies and procedures based on the emergency plan, risk assessment and communication plan which shall be reviewed and updated at least annually. Such policies shall include a

system to track on duty staff and sheltered patients, if any, during the emergency.

C. The ASC shall develop and maintain an emergency preparedness communication plan that complies with both federal and state laws. Patient care shall be well-coordinated within the ASC, across health care providers and with state and local public health departments and emergency systems.

D. The ASC shall develop and maintain training and testing programs, including initial training in policies and procedures and demonstrate knowledge of emergency procedures. Such training shall be provided at least annually.

E. Additional Requirements

1. Each ASC shall post exit signs and diagrams conspicuously through the facility.

2. Flash lights or battery operated lamps for emergency use shall be available for ASC personnel and kept in operational condition.

3. The ASC shall ensure that emergency equipment is:

- a. immediately available for use during emergency situations;
- b. appropriate for the ASC's patient population; and
- c. maintained by appropriate personnel.

4. The ASC shall have written policies and procedures that address the availability and relevant use of the following emergency equipment in the ASC's operating/procedure rooms sufficient in number to handle multiple simultaneous emergencies:

- a. emergency call system;
- b. oxygen;
- c. mechanical ventilatory assistance equipment, including:
 - i. airways;
 - ii. manual breathing bag; and
 - iii. ventilator;
- d. cardiac defibrillator;
- e. cardiac monitoring equipment;
- f. tracheostomy set;
- g. laryngoscope and endotracheal tubes;
- h. suction equipment; and
- i. any other emergency medical equipment and

supplies specified by the medical staff and approved by the governing body for treatment of all age groups serviced in the ASC.

5. The ASC shall have an operable backup generator of sufficient size to support and maintain necessary life-sustaining medical equipment.

a. A sufficient amount of fuel shall be maintained to ensure the operation of the generator for at least four hours to maintain:

- i. temperatures to protect patient health and safety and for the safe and sanitary storage of provisions;
- ii. emergency lighting; and
- iii. fire detection, extinguishing and alarm systems.

6. The ASC is responsible for:

a. developing and implementing policies and procedures for the safe emergency transfer of patients from the ASC in the event that an emergency impacts the ASC's ability to provide services;

b. developing policies that address what types of emergency procedures, equipment and medications shall be available; and

c. providing trained staff to sustain the life of the patient prior to the transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1753 (September 2017).

§4583. Inactivation of License due to a Declared Disaster or Emergency

A. An ASC licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster, issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the ASC shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the ASC has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the ASC intends to resume operation as an ASC in the same service area;

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

2. the ASC resumes operating in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the ASC continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties, if applicable; and

4. the ASC continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an ASC license, the department shall issue a notice of inactivation of license to the ASC.

C. Upon completion of repairs, renovations, rebuilding or replacement, an ASC which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The ASC shall submit a written license reinstatement request to HSS 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

c. The ASC shall submit the following:

i. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal (OSFM) and any other office/entity designated by the department to review and approve the facility's architectural plans;

ii. a copy of the on-site inspection report with approval for occupancy by OSFM, if applicable; and

iii. a copy of the on-site health inspection report with approval of occupancy from OPH.

2. The ASC resumes operating in the same service area within one year.

D. Upon receiving a completed written request to reinstate an ASC license, the department shall conduct a licensing survey. If the ASC meets the requirements for licensure and the requirements under this Section, the department may issue a notice of reinstatement of the ASC license.

E. No change of ownership of the ASC shall occur until such ASC has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an ASC.

F. The provisions of this Section shall not apply to an ASC which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ASC license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1754 (September 2017).

§4585. Inactivation of License due to a Non-Declared Emergency or Disaster

A. An ASC in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the ASC shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the ASC has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the facility intends to resume operation as an ASC in the same service area;

c. the ASC attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the ASC's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility;

NOTE: Pursuant to these provisions, an extension of the 30-day deadline for initiation of request may be granted at the discretion of the department.

2. the ASC continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the ASC continues to submit required documentation and information to the department, including but not limited to, cost reports.

B. Upon receiving a completed written request to temporarily inactivate the ASC license, the department shall issue a notice of inactivation of license to the ASC.

C. Upon the ASC's receipt of the department's approval of request to inactivate the license, the ASC shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the ASC to OSFM and OPH as required.

D. The ASC shall resume operating as an ASC in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

Exception: If the ASC requires an extension of this timeframe due to circumstances beyond the ASC's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the ASC's active efforts to complete construction or repairs and the reasons for request for extension of the ASC's inactive license. Any approvals for extension are at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the ASC, an ASC which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the ASC shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate an ASC license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the ASC has met the requirements for licensure including the requirements of this Subsection.

G. No change of ownership of the ASC shall occur until such ASC has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an ASC.

H. The provisions of this Section shall not apply to an ASC which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ASC license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1754 (September 2017).

Subchapter G. Physical Environment

§4587. General Requirements

A. The standards in this Subchapter shall apply to any ASC constructed after the effective date of this rule, or an ASC that makes alterations, additions or substantial rehabilitation to an existing ASC or adaptation of an existing building to create an ASC. Cosmetic changes to the ASC such as painting, flooring replacement or minor repairs shall not be considered an alteration or substantial rehabilitation.

Exception: For those applicants for ASC licensure who received plan review approval from the OSFM before the effective date of the promulgation of this Rule, or who have begun construction or renovation of an existing building

before the effective date of the promulgation of this Rule, the physical environment requirements of §4587 shall not apply.

B. An applicant for an ASC license shall furnish one complete set of architectural plans and specifications to the entity/office designated by the department to review and approve the facility's architectural plans and the Office of State Fire Marshal.

1. The office designated by the department to review and approve architectural drawings and specifications and the Office of State Fire Marshal shall review and approve the *Life Safety Code* plans before construction is allowed to begin.

2. When the plans and specifications have been reviewed and all inspections and investigations have been made, the applicant will be notified whether the plans for the proposed ASC have been approved.

C. No alterations, other than minor alternations, shall be made to existing facilities without the prior written approval of, and in accordance with, architectural plans and specifications approved in advance by the department, or its designee, and the Office of State Fire Marshal.

D. All new construction, additions and renovations, other than minor alterations, shall be in accordance with the specific requirements of the Office of State Fire Marshal and the department, or its designee, who shall be responsible for the review and approval of architectural plans. Plans and specifications submitted to these offices shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer and shall include scaled architectural plans stamped by an architect.

E. All designs and construction shall be in accordance with the provisions of LAC Title 51, *Public Health—Sanitary Code*.

F. Facility within a Facility

1. If more than one health care provider occupies the same building, premises or physical location, all treatment facilities and administrative offices for each health care facility shall be clearly separated from the other by a clearly defined and recognizable boundary.

2. There shall be clearly identifiable and distinguishable signs posted inside the building as well as signs posted on the outside of the building for public identity of the ASC. Compliance with the provisions of R.S. 40:2007 shall be required.

3. An ASC that is located within a building that is also occupied by one or more other businesses and/or other healthcare facilities shall have all licensed spaces and rooms of the ASC contiguous to each other and defined by cognizable boundaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1755 (September 2017).

§4589. General Appearance and Space Requirements

A. The ASC shall be constructed, arranged and maintained to ensure the safety and well-being of the patients and the general public it serves.

B. The ASC shall have a minimum of two operating and/or procedure rooms and a minimum of one post-anesthesia recovery room to meet the needs of the patients being served. In addition to the operating and/or procedure

rooms and post-anesthesia recovery rooms, the ASC may also have one or more treatment rooms.

C. The location of the operating and procedure rooms within the ASC, and the access to it, shall conform to professionally-accepted standards of practice, particularly for infection control, with respect to the movement of people, equipment and supplies in and out of the operating or procedure rooms.

1. The operating and procedure rooms' temperature and humidity shall be monitored and maintained in accordance with accepted standards of practice and documented on a daily use log that is maintained for a minimum of 18 months.

D. The ASC shall have a separate waiting area sufficient in size to provide adequate seating space for family members and/or guests of the patient.

E. The ASC shall meet the following requirements including, but not limited to:

1. a sign shall be posted on the exterior of the ASC that can be viewed by the public which shall contain, at a minimum, the "doing business as" name that is on the ASC's license issued by the department;

2. signs or notices shall be prominently posted in the ASC stipulating that smoking is prohibited in all areas of the ASC;

3. policies and procedures shall be developed for maintaining a clean and sanitary environment at all times;

4. there shall be sufficient storage space for all supplies and equipment. Storage space shall be located away from foot traffic, provide for the safe separation of items, and prevent overhead and floor contamination;

5. all patient care equipment shall be clean and in working order. Appropriate inspections of patient care equipment shall be maintained according to manufacturer's recommendations and ASC policies and procedures;

6. designated staff areas shall be provided for surgical and other personnel to include, but not be limited to:

a. dressing rooms;

b. toilet and lavatory facilities including soap and towels; and

c. closets or lockers to secure the personal belongings of the staff;

7. adequate toilet facilities shall be provided for patients and/or family which maintain proper ventilation, properly functioning toilet(s) in each toilet facility, hot and cold water in all lavatories, soap and towels;

8. a private area shall be provided for patients to change from street clothing into hospital gowns and to prepare for surgery;

9. provisions shall be made for securing patients' personal effects;

10. all doors to the outside shall open outward and be provided with self-closing devices;

11. all stairways, ramps and elevators shall be provided with non-skid floor surfaces and all stairways shall have handrails on both sides;

12. an effective and on-going pest control program shall be maintained to ensure the ASC is free of insects and rodents;

13. proper ventilation, lighting and temperature controls shall be maintained in all areas of the ASC;

14. waste products shall be stored in covered containers of a capacity and type approved by the Office of Public Health, and disposal of such wastes shall be in a manner approved by the Office of Public Health;

15. each ASC shall provide for a covered entrance, well-marked, and illuminated for drop off and/or pick up of patients before and after surgery. The covered entrance shall extend to provide full overhead coverage of the entire transporting automobile and/or ambulance to permit protected transfer of patients. Vehicles in the loading area should not block or restrict movement of other vehicles in the drive or parking areas immediately adjacent to the ASC;

16. the ASC shall provide a separate room for meetings to ensure privacy between medical staff and family members;

17. patient and family parking spaces shall be provided adjacent to the ASC that are in proportion to the number of pre- and post-operative stations;

18. adequate staff and physician parking spaces shall be available.

F. Surgical Area

1. The surgical area shall be comprised of a minimum of two operating rooms. In new construction and renovation, each operating room shall have a minimum clear floor area of 250 square feet with a minimum clear area of 15 feet between fixed cabinets and built-in shelves.

2. The surgical/ procedure room area shall be located in a segregated and restricted section of the ASC and be removed from general lines of traffic of both visitors and other ASC personnel, and from other departments so as to prevent traffic through them.

3. The surgical/procedure room area shall be defined by the following unrestricted, semi-restricted and restricted areas.

a. Unrestricted Area. This area shall include a central control point established to monitor the entrance of patients, personnel and materials into the restricted areas. Street clothes are permitted in this area, and traffic is not limited.

b. Semi-Restricted Area. This area shall include the peripheral support areas of the surgical center which includes storage areas for clean and sterile supplies, work areas for storage and processing of instruments and corridors leading to the restricted areas of the surgical center. Staff attire appropriate for the semi-restricted area shall be defined in policy. Traffic in this area is limited to authorized personnel and patients.

c. Restricted Area. This area shall include operating and procedure rooms, the clean core and scrub sink areas. Surgical attire, including hair coverings and masks, shall be required in accordance with professionally accepted standards.

4. The operating/procedure room(s) shall be appropriately equipped to safely provide for the needs of the patient and in accordance with accepted clinical practices. The operating/procedure room(s) shall consist of a clear and unobstructed floor area to accommodate the equipment and personnel required, allowing for aseptic technique. Only one surgical case or procedure can be performed in an operating/procedure room at a time.

5. There shall be scrub-up facilities in the surgical center which provide hot and cold running water and that are equipped with knee, foot or elbow faucet controls.

6. Space for supply and storage of medical gases, including space for reserve cylinders shall be provided. Provisions shall be made for the secure storage of all medical gas cylinders to prevent tipping and falling. Policies and procedures shall be developed for testing of medical gases.

7. Equipment storage room(s) shall be provided for equipment and supplies used in the operating/procedure room(s). Equipment storage room(s) shall be located within the semi-restricted area.

a. Stretchers shall be stored in an area that is convenient for use, out of the direct line of traffic and shall not create an obstacle for egress.

8. There shall be emergency resuscitation equipment and supplies including a defibrillator and tracheostomy set available to both surgery and post-anesthesia recovery areas.

a. The numbers of crash carts (emergency medical supply carts) in the ASC should be based on current professionally accepted standards of practice adopted from a national association or organization and defined in policies and procedures, and shall be immediately available to both surgery and post-anesthesia recovery areas.

G. Post-Anesthesia Recovery Area

1. Rooms for post-anesthesia recovery in an ASC shall be provided in accordance with the functional program and sufficient in size and equipment to efficiently and safely provide for the needs of the staff and patients. There shall be at least one separate post-anesthesia recovery area within the ASC.

2. Provisions to ensure patient privacy such as cubicle curtains shall be made.

3. The post-anesthesia recovery area shall be accessible directly from the semi-restricted area and adjacent to the operating/procedure rooms.

4. A nurse's station(s) shall be located within the post-anesthesia recovery area and shall be centrally located with complete visualization of all patients in the post-anesthesia recovery area.

a. Each nurse's station or nursing care area shall be equipped to perform nursing functions to include:

- i. desk space;
- ii. chart racks and/or electronic medical record equipment;
- iii. telephone(s) or other communication equipment; and
- iv. lockable cupboard, closet or room designed for the storage and preparation of patient medications.

b. A double-locked storage shall be provided for controlled substances. Separate areas shall be provided for the separation of internal and external drugs and medications. This area shall be well lighted with temperature controls and accessible only to authorized personnel. A separate refrigerator for pharmaceuticals shall be provided and monitored regularly for documented compliance with temperature controls. A sink with running hot and cold water and sufficient work area shall also be provided in the area of drug preparation.

5. Hand washing station(s) shall be available in the post-anesthesia recovery area.

6. The post-anesthesia recovery area shall have a minimum of 80 square feet provided for each patient in a lounge chair/stretcher.

H. There shall be sufficient space between and around lounge chairs/stretchers and between fixed surfaces and lounge chairs/stretchers to allow for nursing and physician access to each patient.

I. General and individual office(s) for business transactions, records and administrative and professional staff shall be provided within the ASC. Space for private patient interviews relating to admission shall be provided within the ASC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1755 (September 2017).

Rebekah E. Gee MD, MPH
Secretary

1709#054

RULE

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services High Medicaid Hospitals Supplemental Payments Pool Reduction (LAC 50:V.953)

Editor's Note: The following Rule is being repromulgated to correct a citation error. The original Rule can be viewed in the July 20, 2017 edition of the *Louisiana Register* on page 1389.

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.953 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - S. ...

T. Effective for dates of service on or after March 1, 2017, supplemental payments to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital shall be annual. The amount appropriated for annual supplemental payments shall be reduced to \$1,000. Each qualifying hospital's annual supplemental payment shall be calculated based on the pro rata share of the reduced appropriation.

U. - U.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896

(September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1389 (July 2017), repromulgated LR 43:1757 (September 2017).

Rebekah E. Gee MD, MPH
Secretary

1709#056

RULE

**Department of Health
Bureau of Health Services Financing**

Professional Services Program
Enhanced Federal Medical Assistance
Percentage Rate for Preventive Services
(LAC 50:IX.15101)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:IX.15101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter A. General Provisions

§15101. Enhanced Federal Medical Assistance

Percentage Rate for Preventive Services

A. Effective for dates of service on or after May 15, 2017, the federal medical assistance percentage (FMAP) rate received by the department for specified adult vaccines and clinical preventive services shall increase one percentage point of the rate on file as of May 14, 2017.

1. Services covered by this increase are those assigned a grade of A or B by the United States Preventive Services Task Force (USPSTF) and approved vaccines and their administration as recommended by the Advisory Committee on Immunization Practices (ACIP).

2. The increased FMAP rate applies to these qualifying services whether the services are provided on a fee-for-service (FFS) or managed care basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1758 (September 2017).

Rebekah E. Gee MD, MPH
Secretary

1709#055

RULE

**Department of Health
Emergency Response Network**

LERN Destination Protocol: Stroke (LAC 48:I.19303)

The Department of Health, Louisiana Emergency Response Network Board, has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, to promulgate LAC 48:I.19303, rules and regulations for LERN Destination Protocol: Stroke, amending and replacing the previous protocol set forth in LAC 48:I.19301.

Pursuant to Act 248 of the 2004 Regular Session of the Louisiana Legislature, the Louisiana Emergency Response Network and Louisiana Emergency Response Network Board were created within the Department of Health. The Louisiana Emergency Response Network Board is authorized by R.S. 40:2846(A) to adopt rules and regulations to carry into effect the provisions of R.S. 40:2841 et seq. Pursuant to R.S. 40:2841, the legislative purpose of the Louisiana Emergency Response Network is to safeguard the public health, safety and welfare of the people of this state against unnecessary trauma and time-sensitive related deaths and incidents of morbidity due to trauma.

R.S. 9:2798.5 authorizes the board to promulgate protocols for the transport of trauma and time-sensitive ill patients. The Rule provides protocols for transportation of stroke patients, and is designated as LAC 48:I.19303.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 15. Emergency Response Network

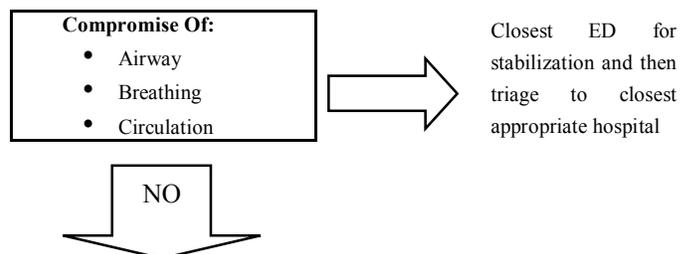
Chapter 193. Stroke Protocols

§19303. LERN Destination Protocol: Stroke

A. On April 21, 2017, the Louisiana Emergency Response Network Board [R.S. 40:2842(1) and (3)] adopted and promulgated “LERN Designation Protocol: Stroke”, amending and replacing the previous “LERN Designation Protocol: Stroke” adopted on November 21, 2013 and set out in Section 19301, as follows.

**LERN Destination Protocol: Stroke
LERN Call Center: (866) 320-8293**

The following protocol applies to patients with suspected stroke:



All other patients with suspected stroke, determine time last seen normal (LSN) and screen for large vessel occlusion (LVO)



LSN < 6 hours* AND screen for LVO is positive

LSN > 6 hours OR screen for LVO is negative

Transport to LERN Stroke Level I, II, or III Center

If < 15 minutes of additional transport time to reach Level I or endovascular capable Level II Center, transfer to the Level I or endovascular capable Level II Center

Transport to LERN Stroke Level I, II, or III Center

If > 15 minutes of additional transport time to reach Level I, II, or III Center than to reach stroke capable Off Site ED, it is acceptable to transport to a stroke capable Off Site ED

* The LSN < 6hrs should include patients without a definite time of LSN, but who could reasonably be assumed to be within 6 hrs of onset, including patients who wake-up with stroke symptoms.

Guiding Principles:

- Time is the critical variable in acute stroke care
- Protocols that include pre-hospital notification while en route by EMS should be used for patients with suspected acute stroke to facilitate initial destination efficiency.
- Treatment with intravenous tPA is the only FDA approved medication therapy for hyperacute stroke.
- EMS should identify the geographically closest hospital capable of providing tPA treatment.
- Transfer patient to the nearest hospital equipped to provide tPA treatment.
- Secondary transfer to facilities equipped to provide tertiary care and interventional treatments should not prevent administration of tPA to appropriate patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2798.5 and R.S. 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 43:1758 (September 2017).

Paige Hargrove
Executive Director

1709#005

RULE

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Driving Schools and Driver Education
(LAC 55:III.Chapter 1)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles has amended Sections 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, and 158 and adopted 159 under Chapter 1 to implement a more comprehensive version of Title 55 as it relates to the rules governing driving schools and the driver education program. The headings generally remain the same throughout but the

content within each Section has been reworded and rearranged to be more user-friendly. In addition to a more comprehensive version of the rules governing driving schools and the driver education program, the Office of Motor Vehicles anticipates an increase in the penalty (monetary assessment) for violations (by driver education providers) of prohibited activities and procedures. Furthermore, the promulgation of these rules will require the driver education providers to obtain a complete medical examination prior to licensing or upon application for renewal as well as requiring that all driver education providers complete a standard first aid or CPR certification and a training course on the prevention of sexual harassment.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§143. Commercial Driving Schools

A. Definitions. As used in this Chapter, the following terms have the meanings described below.

30-Hour Classroom Course—a program which shall consist of a course of not less than 30 hours of classroom instruction required of first-time driver's license applicants' age 15 through 17 excluding lunch breaks. This course shall be conducted utilizing the curriculum contained in this Subchapter.

Adult—a person 18 years of age or older.

Background Check—a secure and reliable way to initiate a criminal check on potential owners, instructors, employees and other types of applicants.

Behind-the-Wheel Instruction—a course which shall consist of a minimum of eight hours of instruction with a student as the operator of a dual-controlled motor vehicle. The course is also referred to as BTW.

Classroom Instruction—a driver education course that is administered in a classroom environment that enables a student to learn through various instructional methods, under the direct guidance of a properly licensed driver education instructor.

Commissioner—the assistant secretary of the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles.

DPS—the Louisiana Department of Public Safety and Corrections, Public Safety Services, acting directly or through its duly authorized officers and representatives.

Driver Education Certificate of Completion—proof of completion of any portion of the driver education course or the pre-licensing course required by law. The course is administered by a certified and approved driving school in the form designated by the DPS.

Driver Education Course—a formal class or program that prepares a new driver to obtain a learner's permit or driver's license. The course of study may be administered in a classroom, in a vehicle, online or a combination thereof. Individuals are instructed on the techniques of driving a vehicle, safety precautions and traffic regulations and laws.

Driver Educational Instructional Document—a document issued by the driving school on a form approved and provided by DPS. Driving instruction details, behind-

the-wheel assessment and other information will be documented on this form.

Driving School—an entity licensed by DPS that offers instruction for the purpose of educating and training an individual, by offering a 38-hour driving course or a 14-hour pre-licensing course, or both.

Eight-Hour Behind-the-Wheel Course Assessment—a program which shall consist of a minimum of eight hours of instruction with the student as the operator of a dual-controlled motor vehicle. If under the age of 18, the student's parent or guardian shall sign, authorizing the instruction. A test is conducted or given at the end of the eight-hour driver education course to determine a student's driving ability.

Fees—the monetary amount for a school license, tester license or instructor license. All fees shall be submitted in the form of a money order, certified check or secondary school system checks.

Instructor—a person who is licensed to provide the driver education curriculum through classroom or behind-the-wheel instruction.

Instructor License—a license issued by DPS that authorizes the holder of the license to provide instruction in driver education courses.

Knowledge Test—final test for the driver education and pre-licensing classroom courses. This test is provided to the driving school by the Office of Motor Vehicles.

Letter of Warning—identification of a violation. The letter will provide that the violation must be corrected and may provide directions and a timeframe of the plans for the suggested corrections.

Major Offense—an infraction of major regulations and policies outlined within this Chapter, which may include but not be limited to, driving schools not adhering to all applicable federal and state laws or engaging in any form of unlawful discrimination or other activities. The commissioner maintains discretion to determine any violations which will amount to a major offense and any monetary penalty to be assessed.

Minor—a person under the age of 18.

Minor Offense—an infraction of minor regulations and policies outlined within this Chapter, which may include but not be limited to, failure to notify students of grievance procedures, accompanying students to OMV with the purpose of assisting the student in completion of the driver's license exam, failure to display the driving school license at the place of business, failure to maintain lesson plans and schedules for the driving school. The commissioner maintains discretion to determine any violations which will amount to a minor offense and any monetary penalty to be assessed.

Motor Vehicle—automobiles, trucks, truck-tractors, trailers and semi-trailers and motorcycles, propelled by steam, gasoline, electricity, or any other source of energy other than muscular power, except farm implements temporarily operated or moved on a roadway or vehicles operated only on rails or tracks constructed therefor.

OMV—any reference herein to OMV shall be construed as referring to the Office of Motor Vehicles, Training and Certification Unit, P.O. Box 64886, Baton Rouge, LA 70896.

Operator—every person who is in actual physical control of a motor vehicle upon a roadway.

Owner—a person or provider who has the principle responsibility for a driver education program.

Penalty—monetary assessment for violation of prohibited activities and procedures outlined in this Chapter. Fine amounts will be based on the nature of the offense, the number of previous offenses, the number of rules violated and the number of times the violations occurred and will be determined by the commissioner. Any penalty assessed shall be between \$100 and \$1,500 per violation.

Person—every natural person, firm, co-partnership, association or corporation.

Pre-Licensing Course—a program which shall consist of six hours of classroom instruction and an eight hour behind-the-wheel course required of first-time driver's license applicants 18 years of age or above, if a 30-hour classroom course is not completed.

Revocation—termination of license to operate a driving school or to instruct at a driving school as provided in these rules and regulations.

Road Skills Test—a driving test that demonstrates the applicant's ability to safely operate and maneuver a vehicle in traffic.

School License—a license issued by DPS authorizing the holder of the license to provide driver education courses.

Secretary—the deputy secretary of the Department of Public Safety and Corrections, Public Safety Services, or his appointed designee.

Street or Roadway—the entire width between the boundary lines of every publicly maintained thoroughfare when any part thereof is open to the use of the public for purposes of vehicular travel.

Student—a person who is enrolled or seeking enrollment in a driver education course or a pre-licensing course.

Supervision—the action or process of watching or directing what someone does or how something is done, or both.

Suspension—the temporary withdrawal of a school or instructor's license for violations of the laws and rules pertaining to driver's education, or both.

Teaching Certificate—a certificate issued by the Louisiana Department of Education indicating the holder is qualified to teach in the secondary schools of this state.

Temporary Instructional Permit—a class "E" temporary instructional permit (TIP) obtained from OMV prior to the student's participation in the classroom permitting an unlicensed student to receive instruction on public roadways from a licensed instructor and be administered a road skills test.

Third-Party Examiner—an individual who has been licensed to administer road skills test through a third-party tester.

Third-Party Tester—for purposes of this Chapter, a driving school with which DPS has perfected a contract with to administer knowledge and road skills tests required by Louisiana law for driver's license issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1974 (August 2012), amended LR 38:3234 (December 2012), LR 43:1759 (September 2017).

§144. Driver Education and Driving Schools

A. DPS shall establish a driver education and training program to be utilized by secondary school systems and private driving schools of this state. A driver education course for any person under the age of 18 shall consist of a minimum of 30 hours of classroom instruction and no less than 8 hours of actual driving instruction.

B. Any application received and approved for a driving school will be issued a license that provides for the administration of a 38-hour driver’s education course, a 6-hour pre-licensing course, and the administration of written and road skills test as a third-party tester. Any DPS approved driving school licensed to only offer the 6-hour pre-licensing course as of August 15, 2011, will be licensed to continue to offer only the 6-hour pre-licensing course, but will be required to become a third-party tester, and is responsible for complying with the new requirements set forth in these rules. No other applications for only providing the 6-hour pre-licensing course will be accepted. A pre-licensing course shall consist of a minimum of 6 hours of classroom instruction and no less than 8 hours of actual driving instruction.

C. Every person licensed or contracted by DPS to operate a private driving training school or agency, or providing driving courses, shall also be licensed or contracted as a third-party tester pursuant to R.S. 40:1461.

D. Every person engaged in the operation of a private driving school shall apply for and procure a license from DPS. No driving school shall advertise without having first obtained a contract with DPS. No person shall for remuneration hold himself as a qualified or licensed instruction without obtaining a license and contract from DPS.

E. Every licensed and contracted third-party tester shall administer both the knowledge and road skills tests required for the issuance of a class “D” or “E” license in Louisiana in accordance with R.S. 32:408.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1975 (August 2012), amended LR 43:1761 (September 2017).

§145. Qualifications for Private Driving School Owners and Instructors

A. Qualifications for a Private Driving School Owner. To become a driving school owner, the applicant shall:

1. be a citizen of the United States or be lawfully present in the United States, and be a resident of the state of Louisiana;
2. be at least 21 years of age and have at least 5 years of driving experience;
3. hold at least a valid class “E” Louisiana driver’s license;
4. have earned at least a high school diploma or GED;
5. not have had driving privileges suspended/disqualified for a DUI/DWI within the last 10 years;
6. possess any required occupational license and business license;
7. within the last three years, not have any of the convictions listed below:
 - a. three or more moving violations on the driving record;

- b. driving under suspension;
 - c. two or more citations for seatbelt violations;
 - d. two or more citations for following too closely;
 - e. one or more citations for child restraint violations;
 - f. three or more exceeding the posted speed limit;
 - g. one or more citations for texting while driving;
 - h. two or more citations for driving without insurance or security within three years; or,
 - i. two or more citations for reckless or careless operation or careless driving;
 8. not have three or more insurance cancellations within the last 12 months on his driving record;
 9. not have been convicted of any offenses related to the operation of a driving school or other business regulated by DPS;
 10. not a current or previous owner of a driving school or any other business regulated by DPS whose license or contract has been revoked;
 11. not have been convicted of a crime involving violence, dishonesty, deceit, indecency or an offense involving moral turpitude, and have not been convicted of any misdemeanor or felony offenses involving controlled dangerous substance(s) or driving while intoxicated within the last 10 years;
 12. not be convicted of any crime enumerated in R.S. 15:587.1(C) (the Child Protection Act), R.S. 15:587.1 et seq.;
 13. has not provided false information with the application or falsified or withheld documents or information from representatives of DPS;
 14. attend and complete the training course for school owners provided by DPS. The applicant must pass a test on his knowledge of LAC 55:III.143-160;
 15. maintain a valid email address for correspondence sent electronically from DPS; and
 16. submit a completed application package as outlined in this Subchapter.
- B. Qualifications for Classroom Instructor. In addition to meeting the qualifications of a driving school owner (with the exception of Paragraphs 14-15 above), a classroom instructor applicant shall:
1. not previously have been a licensed instructor whose instructor’s license has been suspended or revoked;
 2. hold a 30-hour driver education course certificate of completion issued within the past five years or a valid teaching certificate from the Department of Education with the following specialized education courses:
 - a. hold a current valid teaching certificate issued within the past five years with all of the following specialized education courses:
 - i. general safety education course—three hours;
 - ii. basic information course in driver education course—three hours;
 - iii. curriculum innovations and instructional devices course (three hours) in-depth study of driver education and traffic safety curricular materials and familiarization with related instructional devices; and
 - iv. first aid—one hour; or
 - b. a certificate of completion of a driver education course at least equivalent to a 30-hour classroom course which has been approved by DPS;

3. at the time of application, within the last three years, shall not have any convictions listed in §145.A.7-8;

4. have at least five years driving experience;

5. possess a current completed medical examination form (DPS 2032).

C. Qualifications for Eight-Hour Behind-the-Wheel Instructor. In addition to meeting the qualifications of a driving school owner (with the exception of Paragraphs 14-15 in §145.A), an eight-hour behind-the-wheel instructor shall:

1. meet the qualifications of a classroom instructor;

2. hold at least a valid class "D" Louisiana chauffeur's license;

3. not be missing an eye, hand or foot; and

4. have visual acuity not worse than 20/40 in each eye, with or without corrective lenses and not have any restrictions which indicate less than 20/40 vision or has physical impairment restrictions on his driver's license.

D. All instructors shall be approved by DPS and obtain an instructor's license prior to providing instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1975 (August 2012), amended LR 43:1761 (September 2017).

§146. Application Process and Fees for Private Driving Schools and Instructors

A. Application Process for Initial Driving School License. The application process is a two-step approval process.

1. An applicant for an initial driving school license shall submit the following:

a. completed initial application for driving school owner approval (DPSMV6710);

b. non-refundable \$50 certified check or money order made payable to DPS;

c. completed criminal history background check forms for each owner, including two fingerprint cards along with separate certified check or money order made payable to Department of Public Safety and Corrections, for each background check to be conducted;

d. lesson plan containing:

i. beginning and ending time of each class day, including lunch and break periods;

ii. number of class days in the course;

iii. material sources;

iv. how information is presented (i.e. handouts, videos, lectures);

v. title of audio visual sources to be utilized; and

vi. current e-mail address.

2. Once the background check is completed and the initial application is approved, the applicant shall submit the following:

a. completed driving school initial application (DPSMV 2147). This form is furnished by OMV and shall be signed by the owner and notarized;

b. copy of any required occupational and business license(s);

c. completed background check forms on any other employees responsible for the supervision of students;

d. certificate of insurance in the company name stating that all vehicles utilized in the behind-the-wheel course are currently insured and that upon cancellation or expiration, DPS will be notified. This certificate shall be from the issuing insurance carrier, not the agency; identify (by description and vehicle identification number) the vehicle(s) covered. The limits shall be from a company authorized to do business in this state in the amount of at least the minimum amount required by R.S. 32:900;

e. address of and specification of classrooms utilized to conduct the classroom course, including room size and capacity as determined by the state fire marshal or local authority;

f. completed driving school instructor application package for each instructor;

g. course specifications as defined in this Subchapter;

h. copies of unit tests and final examination;

i. lesson plan for the behind-the-wheel course which outlines the stages of the course based on the student's progression and specifies the types of roads traveled, the traffic signals and signs encountered on the routes taken, and the average time frame students are exposed to various types of roads. Written documentation or GPS mapping may be included;

j. completed application package for third-party tester certification;

k. a surety bond in the amount of \$20,000; and

l. a written document between the student and school, as defined in LAC 55:III.147.B.3.

B. All applications for driving schools and instructors must be mailed to:

Office of Motor Vehicles
Attention: Training and Certification Unit
P.O. Box 64886
Baton Rouge, LA 70896

C. Application for Instructor License for a Driving School

1. An applicant shall submit:

a. an application for instructor of a driving school (DPSMV 2148);

b. a completed background check document (DPSSP 6696) and background check fee;

c. a 30-hour driver education training certificate of completion or valid teaching certificate as defined in §145.B;

d. a copy of a high school diploma, GED or higher education certificate;

e. an application fee of \$20 for a two-year period which shall be non-refundable;

f. a completed third-party examiner package as outlined in §156 if the instructor is applying to be a third-party examiner.

D. Licenses

1. Licenses shall be issued on a biennial basis. The initial license shall be valid from the date of issuance until December 31 of the following even-numbered calendar year.

2. Licenses shall be nontransferable. In the event of a change of ownership, application for a new license shall be made and the old license shall be surrendered to DPS before a new license will be issued to the new owner.

3. If a driving school license is lost or destroyed, a duplicate shall be issued for a \$25 application fee upon receipt of a statement of fact or, in the case of mutilation, upon surrender of such license.

4. If an instructor license is lost or destroyed, a duplicate shall be issued for a \$10 application fee upon receipt of a statement of fact or, in the case of mutilation, upon surrender of such license.

E. School/Tester License Fees

1. Every application or renewal for a school license shall be accompanied by an application fee or renewal fee of \$25 per year, collected biennially, per location.

2. A \$25 fee shall be assessed when a school relocates and a new license is issued or if a duplicate license is required.

3. The license fee for an additional location is \$25 per year, collected biennially, and shall be submitted with the new application.

4. Every application or renewal for a third-party tester license shall be accompanied by an application fee or renewal fee of \$50 per year, collected biennially, per location.

5. License fees pursuant to this Section may be prorated.

F. Instructor/Examiner License Fees

1. Every application or an instructor license shall be accompanied by an application fee or renewal fee of \$10 per year, collected biennially, or if a duplicate license is required.

2. Every application for an examiner license shall be accompanied by an application fee or renewal fee of \$25 per year, collected biennially, or if a duplicate license is required.

3. License fees pursuant to this Section may be prorated.

G. Office Staff

1. Every employee involved in the supervision over the students or who has access to student information shall have a background check performed.

2. School owners may employ persons who have not passed a background check for other duties that do not involve access to, care of, or supervision of students and/or minors. These employees will not have access to the records or information of students and/or minors at any time. Furthermore, these employees may not be allowed on the premises of a driving school while students and/or minors are present. In the case of a driving school that has a shared business, these employees shall not be in the same room at any time with students and/or minors, or have access to the records or information of students and/or minors.

H. Renewal

1. Prior to the beginning of the renewal period, a renewal invitation will be offered to eligible schools by email. Previous compliance reviews will determine eligibility.

2. Application for renewal shall be made on the form prescribed by OMV at a minimum of 120 days prior to license expiration.

3. All renewal applications for privately-owned schools shall be submitted to OMV before the close of business on October 1 of the expiration year.

4. Applications received after October 1 will be deemed untimely and may cause delay in renewal of the license.

5. A school that submitted an untimely renewal application and whose renewed license is not issued prior to December 31, shall not be authorized to conduct any classes after December 31, until the license is renewed.

6. Incomplete renewal applications will be returned and may result in a delay of the licensing process.

7. Proof of continuing education for each instructor shall be submitted with the renewal packet as outlined in §151.

8. The following documents shall be submitted as part of the renewal packet:

a. completed application for each school location, indicating the instructors and vehicles utilized at each location;

b. completed application packet for any new instructors added;

c. certificate of insurance in the school's name stating that all vehicles utilized in the behind-the-wheel course are currently insured and that upon cancellation or expiration, DPS will be notified. The certificate shall be from the issuing insurance carrier and not the agency and identify (by description and vehicle identification number) the vehicle(s) covered. The limits shall be from a company authorized to business in Louisiana for at least the minimum amount required by R.S. 32:900;

d. appropriate fees as outlined in §146.E or F; and

e. successful passing of an initial fingerprint background check for each owner, instructor and any other employee involved in the supervision of the students or who has access to student information.

I. Change of Name of Driving School

1. If the school desires to change the operating name of the business, the owner shall submit a written request to OMV (or DPS) for the name change.

2. Upon approval of the name change, the applicant must submit the following documentation:

a. an application for change of name for a driving school, which may be downloaded from the OMV website;

b. copy of any required occupational or business license(s) in the new name;

c. a name change document if the company is on file with the Secretary of State;

d. a surety bond in the new business name in the amount of \$20,000 from a company qualified to do business in Louisiana; and

e. a \$25 application fee.

3. Certificates of completion cannot be issued under the new name until the new contract and license is issued.

J. Change of Address of Driving School

1. Prior approval is required for any classroom or business address change. OMV shall be notified 30 days prior to any change in address to allow for site inspection and verification.

2. Upon approval of the address change, the applicant must submit the following documentation to OMV:

a. an application for change of address for a driving school which may be downloaded from the OMV website;

b. a \$25 application fee collected biennially. A one-year fee will be collected if the application is made during the second year of the license period;

c. documentation listed in Paragraph A.2 of this Section applicable to the new address; and

d. a behind-the-wheel lesson curriculum for the new address.

3. If the location is to be certified as a third-party tester site, the location shall meet the requirements for a tester site as listed in §156.

4. Classes cannot be conducted at the new address until a new contract is signed by OMV and the owner.

K. Additional Location of Driving School

1. A school owner may make application to open an additional location if he has successfully operated the initial (or last) location for at least two years and has submitted two consecutive compliance reviews that did not result in a letter of warning, a fine, a suspension or a revocation.

2. The school owner must submit the following:

a. a completed additional location application which may be downloaded from the OMV website;

b. a \$25 application fee collected biennially. A one-year fee will be collected if the application is made during the second year of the license period;

c. documentation listed in Paragraph A.2 of this Section applicable to the new location; and

d. a behind-the-wheel lesson curriculum for the new location.

3. If the location is to be certified as at third-party tester site, the location shall meet the requirements for a tester site as listed in §156.

4. Classes cannot be conducted at the new location until a new license is issued by OMV.

L. Transfer of Ownership of a Private Driving School

1. The seller shall notify DPS of the pending transfer of ownership. School and instructor licenses are nontransferable as stated in §146.

2. The new owner shall follow the guidelines as prescribed in §146.

3. The commissioner has the final authority in the approval of all transfers of ownership.

4. If the previous owner does not desire a transition phase for the new school owner(s), the currently licensed owner(s) must complete instruction to the current students prior to the transfer of ownership and the new owner(s) must make application for a new driving school. New classes cannot be held by the previous owner(s) or new owner(s) until the transfer of ownership is completed and the new owner(s) is licensed. Once the bill of sale or transfer of ownership is executed, the previous owner(s) must return his original school license and all instructor licenses along with a copy of the bill of sale or transfer of ownership to OMV.

5. If the school is to remain operational during the transition to the new owner(s), the following guidelines covering businesses sold while maintaining the current location must be adhered to.

a. The new owner of the school shall submit an application to own a driving school.

b. The new owner must meet the qualification outlined in §145.

c. If the new owner currently maintains a driving school license, he may purchase a driving school with multiple locations, if approved by the commissioner.

d. If the new owner does not currently maintain a driving school license, multiple locations of a driving school may be purchased, but the new owner shall be licensed for a period of at least 60 days at one location, prior to administering driver's education at multiple locations, and upon approval by the commissioner.

6. OMV may require an interview and a sample of the lesson instruction with the potential new driving school owner(s).

7. The following documents must be submitted when a school has transferred ownership:

a. copy of the bill of sale or transfer of ownership;

b. all items as outlined in §146.E; and

c. copy of the lesson plan and course guide, including the new unit tests and final examination. If a new lesson plan and course guide are utilized; these documents shall be based on the curriculum as outlined in §154:

i. DPS shall approve if the same lesson plan can be utilized;

ii. in the event the same curriculum will be used, a modified course guide must be submitted along with a statement signed by the buyer and the seller that the same curriculum will be utilized, if not specified in the bill of sale or transfer of ownership documentation;

8. if the vehicles utilized in the school are being sold and are registered in the school owner's name rather than the school's name, the title must be transferred to the new owner and the following documents must be submitted:

a. proof of registration of vehicles in the new owner's name;

b. certificate of insurance in the school's name stating that all vehicles utilized in the behind-the-wheel course are currently insured and that upon cancellation or expiration, DPS will be notified. This certificate shall be from the issuing insurance carrier and not the agency and identify (by description and vehicle identification number) the vehicle(s) covered. The limits shall be from a company authorized to do business in Louisiana in the amount of at least the minimum amount required by R.S. 32:900;

9. if the same instructors will remain with the school, a notification of employment of a currently licensed instructor form (DPSMV 6711) shall be completed and submitted along with a \$10 application fee, in lieu of the instructor application packet;

10. all new instructors must complete the application process as outlined in §146;

11. a surety bond in the amount of \$20,000 from a company qualified to do business in Louisiana shall be submitted;

12. a copy of any required occupational license or business license(s) in the new owner(s) name shall be submitted;

13. the new owner(s) shall have the location certified as a third-party tester site. The new owner shall obtain a new certificate of general liability insurance in the school's name. The certificate of general liability insurance shall list the school's address and the current policy dates. This certificate

shall be from the issuing insurance carrier and not the agency. The limits shall be \$1,000,000 per occurrence in general liability:

a. the certificate of general liability insurance must show OMV's address as a certificate holder or additional insured with the following address:

Office of Motor Vehicles
Attention: Training and Certification Unit
P.O. Box 64886
Baton Rouge, LA 70896

b. for any cancellations or expirations, the insurance carrier shall notify OMV;

14. a minimum of one instructor must be certified as a third-party tester examiner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1976 (August 2012), amended LR 40:2603 (December 2014), LR 41:2665 (December 2015), LR 43:1762 (September 2017).

§147. General Regulations for Private Driving Schools

A. All approved private driving schools shall operate from an office in the following manner.

1. The school shall provide a written document to the prospective student detailing the course to be provided and the fee charged for each service. This document shall be signed by the parent (if the student is a minor) or a student (if over the age of 18) and the school owner. A copy of this document and the paid receipt shall be provided to the person that signs the document.

2. DPS shall first approve any name to be used by a driving school. A school shall not use the word "state" or "education" in a part of the school name.

3. A school shall not use any name other than its approved name for advertising or publicity purposes, nor shall a school make any false or misleading statements in any of its advertisements or publications. A school shall not advertise or imply the school is "accredited" by any national or state organization for driving schools, when such accreditation does not exist.

4. A driving school shall not advertise in any way until the contract is offered by DPS to the driving school.

5. The school's license shall be conspicuously displayed in the business during operational hours. In the case of rented or leased space, the license shall be displayed at that location while the space is being utilized by the driving school.

6. In the event a school owner or instructor's license is revoked, that person shall not be involved in the administrative duties of the school without prior approval from the commissioner.

7. All schools shall post a sign within the classroom stating that anyone who wishes to file a complaint against the school may contact the Training and Certification Unit at the Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA, 70896, Attn.: Training and Certification Unit.

8. Driving schools may employ instructors currently licensed by DPS without repeating the application process. A notification of employment of a currently licensed instructor (DPSMV6711) form shall be completed and submitted along with an application fee of \$10, in lieu of the instructor application packet.

9. The driving school shall adhere to all applicable federal, state and local laws and shall not engage in any form

of unlawful discrimination or other activities. The owner or instructor shall not knowingly present to DPS false or misleading information relating to the licensing process.

10. Driving school owners shall not allow any person associated with the driving school, who has not passed a background check and whose background check is not on file with OMV, to be responsible for or to have direct care over minor students. The responsibility or direct care over the minor students shall be any contact with a student, including but not limited to, monitoring students, or transporting students to and from instruction. This rule applies to all driving school employees, including instructors and administrative staff, and any other associates of the driving school.

11. Driving school owners are responsible for all actions that occur in association with their driving school. This includes actions of instructors, school employees and employees of other businesses the owner may be involved with.

12. Driving school owners shall ensure that each student or potential student that contacts the school is treated respectfully and professionally at all times, regardless of their age, race, sex, sexual orientation, religious affiliation, etc., in accordance with Louisiana law regarding discrimination.

13. Driving school owners are responsible for ensuring all instructors are familiar with the rules and regulations covering driver education providers and are aware of the consequences of violating these rules.

B. Surety Bond

1. School owners shall be required to maintain a \$20,000 surety bond while maintaining a license to operate a driving school.

2. OMV shall be listed as the obligee.

3. Students (over 18) or parents (of minor students) may file with DPS for reimbursement of all or part of the course fee when the school or its instructors fail to provide the instruction as required by statute and these rules.

4. If the school is unable to complete a student's course, a parent or adult student may request a refund for the uncompleted portion of the course. This refund should be made available within 10 days of the request. If a reasonable request for a refund is not granted, the student and/or the parent may apply against the school's surety bond.

5. The parent/student must complete a claim form and submit the form and supporting documents with the claim to OMV for consideration. Supporting documents may include:

- a. copy of paid receipt for course;
- b. copy of any contract signed by parent/student and school; or
- c. any documents for course scheduling.

C. A school shall have a commercially established primary location where records shall be kept in a secure manner. Records shall be available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. All schools must secure a business location for record keeping and test administration by September 20, 2017.

1. Classrooms utilized shall meet at least the minimum state, OSHA and ADA requirements for all classrooms.

a. All locations must be licensed prior to the classroom instruction.

b. A classroom location may be obtained by renting space from facilities in the form of a conference room or a meeting room. Photographs of these meeting rooms must be submitted with the license application for that location.

c. No classes are to be held in a room that is designed for temporary residence.

d. No facilities may be rented or leased from an establishment that restricts entrance by age (no minors).

e. No driving school shall be allowed to conduct business or instruction from a private residence. Any classroom located on private property shall not be attached to a private residence.

f. Classrooms shall begin and end at the same location, unless prior approval has been obtained from the commissioner.

2. The classroom shall be equipped with any current standards of equipment to properly instruct the classroom course.

3. The classroom may also be equipped with instructional software, traffic boards(s), state/local maps, laser pointer and traffic templates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1977 (August 2012), amended LR 40:2604 (December 2014), LR 41:2665 (December 2015), LR 43:1765 (September 2017).

§148. Secondary/Alternative School Driver Education Program

A. Qualifications for Secondary Schools and Instructors

1. The school shall have an established physical location where the driver education program will be administered.

2. The applicant for a classroom instructor shall meet the qualifications for instructors listed in §145.B.

3. Qualifications for Eight-Hour Behind-the-Wheel Instructor. To be an eight-hour behind-the-wheel instructor the applicant shall:

a. meet all of the qualifications for a secondary school classroom instructor;

b. meet all of the qualifications in §145.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1978 (August 2012), amended LR 43:1766 (September 2017).

§149. Application Process and Fees for Secondary/Alternative Schools and Instructors

A.1. Application process for individual secondary schools in which the driver education program is controlled at the school level, shall submit the following:

1. complete application package. Incomplete application packages shall be returned;

2. complete initial application for secondary school driver's education program (DPSMV6714);

3. non-refundable \$50 application fee;

4. completed lesson plan as listed §146.A;

5. current e-mail address;

6. certificate of insurance in the school/system's name stating that all vehicles utilized in the behind-the-wheel course are currently insured and that upon cancellation or expiration, DPS will be notified. This certificate shall be

from the issuing insurance carrier, not the agency; identify (by description and vehicle identification number) the vehicle(s) covered. The limits shall be from a company authorized to do business in this state in the amount of at least the minimum amount required by R.S. 32:900.

B. Application process for parish school system driver education programs which are controlled at the system level, shall include the following:

1. completed initial application for parish-wide driver education program application (DPSMV6713);

2. completed package as listed above in §146.A.3-6 in this Chapter for individual secondary school application process.

C. Application for a Secondary School Driver Education Instructor License. Incomplete application packages shall be returned. Applicants shall submit a completed secondary school driver education instructor application (DPSMV2148) and the documents as listed in §146.

D. Licenses

1. School/tester licenses shall be issued on a biennial basis. The initial license shall be valid from the date of issuance until August 31 of the current odd numbered year or next odd numbered year.

2. Every application for license shall be accompanied by a non-refundable application fee or renewal fee of \$25 per year, collected biennially, per location or per school system.

3. Instructor/examiner license shall be issued on a biennial basis. The initial license shall be valid from the date of issuance until August 31 of the current odd numbered year or next odd numbered year.

4. If the completed application including all fees is not received by August 31, the license shall expire.

E. School/Tester License Fees

1. Every application or renewal for a school license shall be accompanied by an application fee or renewal fee of \$25 per year, collected biennially, per location.

2. Every application or renewal for a third-party tester license shall be accompanied by an application fee or renewal fee of \$50 per year, collected biennially, per location.

3. Every application for license shall be accompanied by a non-refundable application fee or renewal fee of \$10 per year, collected biennially, for each individual instructor for the school or if a duplicate license is required.

4. If a school license or instructor license is lost or destroyed, a duplicate will be issued for a \$10 application fee upon a statement of fact or, in the case of mutilation, upon surrender of such license.

F. Instructor/Examiner License Fees

1. Every application for an instructor license shall be accompanied by an application fee or renewal fee of \$10 per year, collected biennially, or if a duplicate license is required.

2. Every application for an examiner license shall be accompanied by an application fee or renewal fee of \$25 per year, collected biennially, or if a duplicate license is required.

3. Every application for license shall be accompanied by a non-refundable application fee or renewal fee of \$10 per year, collected biennially, for each individual instructor for the school or if a duplicate license is required.

4. If a school license or instructor license is lost or destroyed, a duplicate will be issued for a \$10 application fee upon a statement of fact or, in the case of mutilation, upon surrender of such license.

G. Renewal

1. Application for renewal of a license shall be made on the prescribed renewal form (renewal application), by the close of business on June 1 of the expiration year, and accompanied by the appropriate fees.

2. The fees shall be submitted in the form of a money order, certified check or check from a school.

3. Applications received after June 1, will be deemed untimely and may cause delay in renewal of the license. If the license is not issued prior to August 31, the school shall not be authorized to conduct any classes until the license is renewed.

4. Documents shall be submitted for the renewal process in the same manner as §147.B.8.

5. Any school that fails to renew their license within six months of expiration shall be required to begin the initial application process again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1979 (August 2012), amended LR 38:3235 (December 2012), LR 43:1766 (September 2017).

§150. Regulations and Policies for Secondary and Alternative School Driver Education Courses

A. General Regulations for Secondary and Alternative Schools. All approved secondary and alternative schools shall operate from an office in the following manner.

1. In parishes where one or more instructors provide driver education instruction for all schools in the parish, the parish school system shall make application to provide driver education. The instructor shall be issued a parish-wide license for instruction.

2. If oversight for the driver education program is provided at the system level, the system shall determine the location where the records shall be kept. All records shall be maintained at a central location which provides DPS access to the records during daytime business hours.

3. Individual secondary schools shall apply to DPS for the approval of its driver education courses prior to the administration of same.

4. In school systems where the oversight for driver education is provided at the individual school level, the records shall be maintained at the individual school and shall be made available to DPS during daytime business hours.

5. Classroom instruction shall be provided at an approved and certified driving school. Home study is not permitted for any portion of the classroom instruction.

6. The school superintendent/principal shall share the responsibility for all acts performed by instructors or employees that are within the scope of employment and which occur during the course of employment.

7. Principals/superintendents shall be responsible for ensuring instructors complete continuing education courses in an effort to stay abreast of the latest trends and standards of driver education.

8. Secondary schools shall have the option to provide a six hour pre-licensing course.

9. Secondary schools shall have the option to administer the knowledge and road skills tests to students who are currently enrolled in its school system or have completed the system's driver education course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1980 (August 2012), amended LR 43:1767 (September 2017).

§151. Regulations for All Driver Education Providers

A. General Regulations. The rules and requirements listed in the remainder of this Section shall apply to both private driving schools and driver education programs administered by secondary and alternative schools.

1. Prior to enrollment in a driver education or pre-licensing course, a student shall obtain a temporary instructional permit from OMV as required by R.S. 32:402.1. School owners will verify that the permit has been obtained prior to the student's participation in any driver's education course.

2. Employees of DPS whose duties relate in any way to the issuance of a driver's license shall not be connected with any driving school.

3. Failure to receive notification of information due to an improper e-mail address or filter setting is the owner's responsibility to correct.

4. The school shall notify DPS by e-mail at ladrivingschools@dps.la.gov of any change(s) in their contact information within 10 business days of such change.

5. Any additional instructors hired during the license period shall be properly licensed prior to administering any instruction.

6. The school shall permit DPS representatives to inspect the school and shall make available to DPS, when requested to do so, all information and records pertaining to the driver education program. Upon request, the school shall provide photo copies of the school records required by DPS.

7. The school shall not, by advertisement or otherwise, state or imply that a driver's license is guaranteed or assured upon completion of a driver education training course or the road skills test.

8. The school shall maintain adequate standards of instruction, qualified instructors, and equipment sufficient to adequately maintain the school and classes.

9. Instructors shall maintain a professional demeanor at all times when dealing with students.

10. Instructors shall not accompany any student into any examining office rented, leased or owned by DPS, for the purpose of assisting students in taking a driver's license examination.

11. Instructors shall not loiter, advertise or personally solicit any individual on the premises rented, leased or owned by DPS, and operated for the purpose of issuing driver's licenses.

12. Instructors shall not use the space provided on the premises of any office rented, leased or owned by DPS, for parallel parking or any other behind-the-wheel instruction during normal OMV business hours.

13. Each school shall maintain a minimum of one properly licensed instructor who is trained to administer road skills tests.

14. Home study is not permitted for any portion of the classroom instruction.

15. A school that is operating at a location without a current license may have its license and contract revoked or suspended, or a fine may be assessed.

16. All grievances or complaints made against the school and/or instructor shall be addressed within 10 business days and the resolution shall be documented.

17. The school shall notify OMV of any licensed instructor who leaves the employment of the school within 10 business days. The instructor license shall be returned to OMV for cancellation. OMV shall provide the school e-mail notification that the license has been received within 3 business days.

18. A licensed owner or instructor who is arrested for any offense which would disqualify him shall notify OMV in writing within three days of the arrest. Failure to notify OMV may result in suspension or revocation of the school and/or instructor license.

19. Owners/principals/superintendents are responsible for ensuring that instructors complete the required continuing education courses in an effort to stay abreast of the latest trends and standards of driver education.

20. Driver education instructors shall participate in and provide evidence of completion of at least two separate courses from the following list to obtain credit for continuing education on an annual basis. Credit shall be given only for courses that were completed during the appropriate licensing period. The same course cannot be submitted in consecutive years. The list includes:

a. post-secondary course that pertains to driver education as provided by an accredited college or university. A passing grade is required;

b. an approved defensive driving instructor development course;

c. a course provided by national, state, or regionally sponsored in-service workshops, seminars, or conferences that pertain to subject matters relative to the practice of driver education or teaching techniques; and

d. a course that pertains to subject matters relative to driving safety.

21. Each instructor shall once every two years provide proof of completion of:

a. a standard first aid or CPR certification; and

b. a training course on the prevention of sexual harassment.

22. In the event of a voluntary school closure, the school must notify OMV within 10 business days of closing by submitting the notification of facility closure form approved and provided by DPS/OMV. The original license shall be attached to the notification form.

a. The school may reapply within 180 days of closure (upon approval by DPS). A replacement license shall be issued with a new issuance date upon payment of a \$25 fee.

b. If a new location is selected, the school shall not conduct any classes until the new location has been inspected and approved.

c. If the school has been closed for 180 consecutive calendar days, a new school application with applicable fees must be submitted.

23. An instructor may be eligible to apply to another licensed school if the school where the instructor is currently employed has its license or contract revoked.

24. Any person who engages in prohibited activity, such as, administering classroom instruction, behind-the-wheel instruction, issuing certificates of completion or advertising as a licensed, authorized or approved driving school, or holding oneself out as an authorized or approved driving school or instructor without a license, authorization or approval by DPS shall be subject to the issuance of a cease and desist order.

25. Approved driver education providers shall be listed on OMV's website upon license issuance.

26. School owners shall ensure students are enrolled in the correct course according to age and eligibility.

27. An instructor shall not request a student go to any location that is not in the scope of the driver education instruction or program.

28. An instruction shall not take a student to any location that is not in the scope of the driver education instruction or program.

29. The school owner may designate a representative (licensed instructor of the school) to oversee and assume responsibility for the operation of the school and to sign school documents, except for the third-party tester agreement. The completed assignment of designated representative form must be on file with DPS.

B. Records Regulations

1. A school shall have a primary location where records shall be kept in a secure manner. Records shall be available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Only schools which are currently licensed by June 30, 2012 and currently maintain records at the owner's residence are allowed to do so. If the physical location where records are kept is the owner's residence, the owner agrees to make the records available for inspection. All schools licensed from this point forward will be required to maintain a primary location for the records.

2. Any forms approved and provided by OMV/DPS shall not be modified without prior written approval from OMV, with the following exceptions.

a. Schools shall place the school name and license number on the heading of the document.

b. Portions of the document may be highlighted for ease of use for the instructor and student.

3. All schools shall make available records and necessary data required for licensing for inspection by authorized DPS representatives.

a. DPS may require a licensee to submit any original records and data that are necessary for the facilitation and/or completion of an investigation pertaining to a violation of these rules or the Child Protection Act.

b. All documents shall contain the required information or they shall be considered incomplete.

c. Any records that are required to be submitted from the school to DPS upon request from DPS, are then considered DPS records.

4. All records and necessary data pertaining to the operation of the school shall be maintained in the office for five years. A hardcopy original shall be maintained for one year. Records may be electronic after one year.

5. Records shall include, but are not limited to:

- a. a file including the name, address and contact information of all guest lecturers;
- b. a file on all instructors containing a copy of the instructor's license and employment records including time and attendance records as well as address and contact information;
- c. a copy of lesson plans and other resources utilized for classroom instruction. Written documentation of the lesson plan for the behind-the-wheel portion of the course;
- d. class schedules and sign in rosters from classes held;
- e. copies of all written complaints and grievances filed with the school along with written documentation of the resolution.

6. Every driving school shall maintain the following records on the individual student who is administered either the driver's education or pre-licensing course:

- a. official name and address of the school;
- b. completed enrollment form which shall include, but is not limited to, the following:
 - i. a copy of the temporary instruction permit, telephone number and physical address (other than P.O. Box);
 - ii. parental/guardian consent for minor applicants, including identification presented;
 - iii. date of enrollment;
 - iv. any funds received from, or on behalf of, a student;
 - v. dates of classroom instruction;
- c. date and reason why instruction terminated, if applicable;
- d. copy of certificate of completion.

7. Every driving school shall maintain a class schedule and shall notify DPS of the classes scheduled, including the type of course to be administered. This schedule may be submitted biannually. DPS shall be notified of any changes in the schedule after submission to DPS. The driving school may post the class schedule on its website.

C. Minimum Course Standards

1. A minimum of one instructor is required for each classroom.

2. No more than eight hours of instruction, including unit tests or final examination, shall be conducted per day.

3. Administrative procedures, such as registration, shall not be included in instructional time. Registration shall be completed prior to the start of the first class session.

4. Lunch periods shall be proportionate to instructional time but shall not be considered as part of the instructional time for a driver education course.

5. Allotted break times shall not exceed 15 minutes per each 2 hours of instruction. All break periods shall be provided prior to the final examination.

6. The driver education course shall provide a minimum of 30 hours of classroom instruction. The formalized instruction, a minimum of 22 1/2 hours (75 percent), will consist of lecture, computer format and

classroom discussion. The instruction provided with audio visuals may include films, slides, videos or demonstrations specifically designed to supplement the formalized instruction. A maximum of 7 1/2 hours (25 percent) may consist of audio visuals.

7. The driver education course and the pre-licensing course shall not be conducted simultaneously in the same classroom setting.

8. DPS reserves the right to attend any classroom course provided by the school to ensure full compliance with administrative code and course content.

9. The pre-licensing course shall provide a minimum of six hours of classroom instruction. The formalized instruction, a minimum of four and a half hours (75 percent), will consist of lecture, computer format and classroom discussion. The instruction provided with audio visuals may include films, slides, videos or demonstrations specifically designed to supplement the formalized instruction. A maximum of one and a half hours (25 percent) may consist of audio visuals.

10. Unit tests shall be administered to measure the effectiveness of instruction during the classroom course. Unit tests given shall not replace the final test.

11. A student may opt to complete the behind-the-wheel instruction at a different school. The school shall provide the student with the appropriate certificate of completion for requirements met by the student.

12. A school owner, instructor or employee shall not give a student the impression, by advertisement or otherwise, that a driver's license, learner's permit, or certificate of completion is guaranteed or assured.

13. A school owner, instructor or employee shall not give any impression that Carnegie credits will be given upon completion of this course, without the expressed written approval of the Louisiana Department of Education.

D. Classroom Setting Standards

1. The classroom capacity shall meet the stipulations as defined in §147.C.

2. Classroom settings shall be conducive for learning and shall include seating in the form of tables and chairs or desks.

3. Multiple classrooms shall be separated by solid walls which are made of materials that reduce noise transfer between classrooms.

4. Schools which share locations with other businesses shall take all means necessary to ensure the security and safety of minor students and shall ensure the location is free of interruptions during scheduled class times.

E. Exam Standards

1. A final examination, provided by DPS, shall be administered to all students at the completion of the course. Students may not be given credit for the classroom course unless they score at least 80 percent on the final examination.

2. Passing the final examination in the driver education course shall qualify the student for a driver's license or a learner's permit without the administration of a knowledge test by OMV.

3. Every 120 days DPS shall furnish the school with a new version of the knowledge test. The school shall shred all previous versions of the tests upon receipt of the new updated versions.

4. All copies of the tests and answer keys shall be kept under lock and key at all times. In order to deter theft, photocopies of the test shall not be produced in bulk. Photocopies of the test should be produced at the completion of the course and only sufficient numbers photocopied for the enrolled students. Any unused tests should be shredded.

5. Lost or stolen knowledge tests shall be reported to OMV immediately. The local law enforcement agency shall also be notified and a police report shall be submitted to OMV immediately.

6. Each student who is administered the final knowledge test shall be notified, prior to testing, that he is subject to being retested by OMV at any time.

7. The classroom instructor shall ensure that students seated next to each other have different versions of the test to complete.

8. Any student who fails the final exam shall be allowed to retest once the same day. If the student does not pass the test on the second attempt, the student may return any day thereafter and retest twice each day until the test is passed.

9. Students who cheat on the test will have the test destroyed and shall wait 30 days before retesting.

10. The completed test shall be attached to the certificate of completion for surrender to DPS at the time of license application. Both documents shall be placed in a sealed envelope.

11. Students may not leave the classroom during the final examination. Electronic devices (tablets, PDAs, cell phones) for personal use shall not be allowed in the classroom during examinations. Electronic devices used for test administration are acceptable.

12. Schools and/or instructors that provide students with the answers to the test, teach only the information contained on the test, do not properly secure the tests, and assist a student to pass the final exam by deceptive practices, or accept bribes to give a student a passing score shall have their license/certification/agreement revoked.

F. Insurance and Safety Requirements

1. Every motor vehicle used for behind-the-wheel instruction shall be properly registered in Louisiana and display a current Louisiana inspection sticker. The vehicle shall be equipped with the following special equipment:

a. securely installed dual controls of the foot brake (and clutch on vehicles with manual transmission), capable of bringing the vehicle to a stop and otherwise equipped, in accordance with Louisiana laws;

b. interior rearview mirrors attached to the windshield, one for the driver and one for the instructor to monitor traffic;

c. appropriate cushions for proper seat in seating, and brake and accelerator pedal extensions available for students when necessary;

d. instructor's eye check mirror to monitor eye movement of students;

e. first aid kit; and

f. fire extinguisher (at least UL rated 5B:C).

2. All vehicles utilized in the behind-the-wheel instruction shall be properly insured in the school's name. A certificate of auto liability insurance shall be provided to DPS identifying (by description and vehicle identification

number) the vehicle(s) covered. This certificate shall be from the issuing insurance carrier, not the agency. The limits shall be from an insurance company authorized to do business in this state in the amount of at least the minimum amount required by R.S. 32:900. Upon cancellation or expiration of the policy, DPS shall be notified by the insurance carrier.

3. Every vehicle used for behind-the-wheel instruction shall contain a conspicuously displayed, securely fastened sign to the rear stating "student driver." A sign bearing the name of the driving school under which it is licensed may be used in lieu of the student driver sign. The sign shall be in plain view and shall have contrasting letters not less than 3 1/2 inches in height, readable from a distance of not less than 100 feet. A decal or sign listing the school name, address and phone number shall be displayed on each side of the vehicle.

4. DPS shall be advised via e-mail at la.driving.schools@dps.la.gov within 10 business days of a vehicle that is removed from service and shall be provided the required information on replacement vehicles. OMV shall provide the school e-mail notification within three business days that the information has been received. The school shall send the odometer reading of vehicles for the first and last day of service and proof of registration for the vehicle(s) removed or added to service.

5. Motor vehicles utilized for behind-the-wheel instruction shall have less than 300,000 miles recorded on the odometer and shall be maintained in safe mechanical and physical condition at all times. Vehicles utilized should be of a type that is not intimidating to a novice driver. It is recommended that vehicles used are in the "compact" or "intermediate" size classification.

6. Fleet Policies. If the driving school is covered under a fleet policy and desires to add another vehicle to its fleet, it must advise the insurance company to notify DPS that this unit (specifying the make, model and vehicle identification number) has been added. The insurance company shall furnish the department a copy of the certificate of auto liability insurance with the addition of the vehicle.

H. Behind-the-Wheel Instruction Requirements

1. A student shall be at least 15 years of age to participate in the behind-the-wheel instruction.

2. The domiciliary parent/guardian of a minor student shall sign the consent prior to any behind-the-wheel instruction. The consent shall be signed in the presence of the owner or an instructor.

3. Prior to each behind-the-wheel driving session, the school shall verify that the student's temporary instructional permit is in his possession at all times while driving. The permit shall be presented upon request to any law enforcement officer.

4. No more than two students shall be allowed in a school vehicle during the behind-the-wheel instruction. Only the student driver and the driving instructor shall be allowed in the front seat of such vehicle. Students shall not receive credit for riding time.

5. The behind-the-wheel instructor shall use and complete the driver education vehicle monthly log each time a student operates the driver education vehicle. The log shall

not be utilized to record a student's riding time. At the end of each month, the log shall be filed in the primary office of the school.

6. The 8-hour behind-the-wheel instruction shall be completed within 90 days of the end of the classroom instruction for the 6-hour classroom course. The 8-hour behind-the-wheel instruction shall be completed within 120 days of the end of the classroom instruction for the 30-hour classroom course.

a. It is the responsibility of the driving school, (not the parent/student) to schedule acceptable times for the student's behind-the-wheel instruction and to finish it within the 90-day or 120-day timeframe.

b. Behind-the-wheel instruction shall not be performed before 6 a.m. or after 10 p.m. or during any time that would result in an unexcused absence from school as defined by the Louisiana Department of Education.

c. The school must provide documentation satisfactory to DPS that a student has not completed the behind-the-wheel course for reasons that are beyond the control of the school. Acceptable reasons include, but are not limited to, the following:

i. the student was given sufficient notice and opportunity to complete the course;

ii. the student was provided a certificate of completion for the classroom portion;

iii. the student has been issued a refund of the fee, if any, specifically for the eight-hour behind-the-wheel course;

iv. the student has been removed from the active class roster for documented cause.

d. If the driving school has not completed behind-the-wheel instruction within the requisite time frame, DPS may issue an order to the driving school to not begin any classroom instruction until all outstanding behind-the-wheel instruction is complete. DPS will notify the school when the order has been lifted. Violations of this Section may be subject to a fine.

e. If the behind-the-wheel driving portion of the class is terminated or cannot be completed within the required timeframe, documentation with details explaining the reason shall be maintained in the student's file. OMV may contact the student, parent or guardian to verify the reason listed is accurate.

f. Upon DPS' request, the driving school must provide records of the behind-the-wheel instruction to DPS.

7. Electronic communication devices shall not be utilized by any occupant of the vehicle during a driving session, except in emergency type situations or when the vehicle is stopped and off the road in a safe location.

8. The student shall not engage in any activity unrelated to driving instruction during behind-the-wheel instruction.

9. Behind-the-wheel instructors shall remain alert during the student's driving session.

10. An instructor shall not perform any other activity not pertaining to supervising behind-the-wheel driving instruction.

11. The behind-the-wheel instruction shall expose the student to as many types of roadways as possible, based on the student's skill level progression. At least one hour of

instruction on the following types of roadways is recommended:

a. rural roads;

b. city roads;

c. major highways;

d. interstate;

e. to and from a student's home and school; or

f. additional time may include traveling roadways where the student exhibits any weakness.

12. A student's driving progress shall be documented in the student's record.

13. The beginning and ending odometer reading on the vehicle shall be recorded prior to each student's driving session. Any odometer reading shall not be altered without an accompanying explanation.

14. Students shall score at a minimum of 70 percent on the eight-hour behind-the-wheel course to receive a certificate of completion for the course.

I. Driver Education Certificate of Completion Requirements

1. The driver education certificate of completion will expire five years after the completion date.

2. Every driving school approved by DPS, shall be required to serially number and complete the uniform driver education certificate of completion. Each certificate shall display a distinguishing seal, consisting of the driving school's name, affixed to the specified area of the form, not to obscure any of the required signatures.

3. The certificate of completion shall be completed in its entirety by school personnel prior to issuance to the student.

4. Upon request, driving schools shall provide photocopies or duplicates of driver education certificate of completion upon a student's request for a minimum of five years from the date of issuance. Such duplicates shall be signed and dated by the owner of the driving school.

5. Every driving school shall maintain an ascending numerical accounting record of all certificates issued.

6. Unissued driver education certificates of completion shall be safeguarded at all times. The certificates shall be kept in a secure place under lock and key and shall be made available to those representatives of the driving school authorized to issue such certificates, DPS representatives, and any law enforcement agency during normal business hours.

7. Unissued lost or stolen certificates of completion shall be reported to DPS immediately. If a theft or suspected theft has occurred, the local law enforcement agency shall also be notified and a police report submitted to OMV.

8. A student may opt to complete the behind-the-wheel instruction at a different driving school. The school shall provide the student with the appropriate certificate of completion for requirements met by student.

9. Schools shall complete a student assessment including any comments relevant to the student's proficiency and shall attach the assessment to the driver education certificate of completion to advise the parent(s) of the student's driving proficiency

J. Code of Conduct of Driving Schools

1. All driving schools shall comply with all applicable federal, state, and local laws and regulations.

2. All driving schools shall conduct themselves in a professional manner when communicating with the public, students and representatives of DPS.

3. All driving schools shall encourage their employees to perform their duties conscientiously, honestly and in accordance with the best interests of DPS and the students.

4. All driving schools are representatives of DPS and shall conduct themselves in such a manner that reflects positively on the mission statement set forth with DPS.

5. All driving schools shall demonstrate the core values of integrity, respect, performance excellence and accountability.

6. The driving school shall adhere to applicable federal, state, and local laws and shall not engage in any form of unlawful discrimination or other illegal activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1980 (August 2012), amended LR 41:151 (January 2015), LR 43:1767 (September 2017).

§152. School Policies and Course Specifications

A. Every driving school shall furnish each student/parent with the school policies prior to the beginning of any instruction. The following information shall be contained in the school policies.

1. The total fee for the course of instruction shall be listed by classroom fee and behind-the-wheel fee. This fee shall cover all expenses including the cost of the original and at least one copy of the driver education certificate of completion provided to each student.

2. Any additional charge for the use of a school vehicle in taking behind-the-wheel instruction or for transporting a student to/from instruction.

3. In the event of a school's closure, either by voluntary measures or by action of DPS, a refund will be issued upon request. All refunds will be processed within 30 days after the effective date of termination or request, whichever occurs first.

4. The school's standards of required behavior including but not limited to:

a. an absolute prohibition against cheating as well as the consequences which will result if these standards are violated;

b. the school's policy on students' use of electronic communication devices in the classroom; and

c. the school's policy pertaining to absence and rescheduling procedures.

B. Course Specifications

1. The purpose for course specification is to explain the documentation and procedures for the student/parent required for the course.

2. DPS' grading policy, indicating that a passing score of 80 percent on the classroom and 70 percent behind-the-wheel shall be achieved in order to be issued a driver education certificate of completion.

3. Explanation of instruction the student will receive including:

a. number of mandated classroom instruction hours;

b. number of mandated behind-the-wheel instruction hours; and

c. how the student's performance will be evaluated and the requirements necessary to complete the course.

4. Identification of alternative testing techniques to be used for students with hearing, speech or learning disabilities. This information should be made available prior to the student's enrollment.

C. School Policies

1. If the school is unable to complete a student's course, a parent or adult student may request a refund for the uncompleted portion of the course. This refund should be made available within 10 days of the request. If a reasonable request for a refund is not granted, the student and/or the parent may apply against the school's surety bond.

2. In the event of a school's closure, either by voluntary measures or by action of DPS, a refund will be issued upon request. All refunds will be processed within 30 days after the effective date of termination or request, whichever is sooner.

3. Any student(s) trained by an unlicensed instructor may shall be entitled to a refund of tuition and fees as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1984 (August 2012), amended LR 43:1772 (September 2017).

§153. Parental Orientation [Formerly §154]

A. Upon enrollment of a minor student, the school shall conduct a parental orientation responsibility segment with the parents/guardian of the student. The school shall maintain a roster of the parents/guardian who attended the parental responsibility segment. The segment shall include, but not be limited to the following:

1. a review of the course content;

2. a review of the leading factors involved in teen driver collisions;

3. the graduated driver license program;

4. determining the readiness of the teen to begin the driving process;

5. the parent's responsibility to enhance the teen's driving experience;

6. supervising the teen's driving to determine his readiness to advance to the next licensing stage;

7. the parent/guardian's responsibility to provide a minimum of 50 hours supervised practice driving including 15 hours night time practice; and

8. parent/teen agreement.

B. The parental segment shall not count as part of the 30 hours of classroom instruction and shall be conducted prior to the first day of class.

C. In lieu of the school requirement, DPS may approve and designate a third-party to provide the parental responsibility segment. The parent/guardian shall be required to attend the third-party segment and provide proof of attendance to the driving school prior to the minor's participations in any classroom instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR

§154. Driver Education Curriculum [Formerly §153]

A. The curriculum contained in this Subchapter was obtained from documents provided by National Highway Traffic Safety Administration (NHTSA) for Novice Teen Driver Education and Training Administrative Standards. It was prepared by the Driving School Association of the Americas and meets the current recommended national standards.

1. The curriculum as provided in these rules shall be covered in its entirety.

2. The order in which the topics are presented and the manner in which they are presented are left up to the discretion and teaching strategies of each school.

3. Each school will be responsible for utilizing its creative license to present the course in such a manner the students will absorb and retain the information presented.

4. Media resources may be used to augment the program's curriculum. All media resources shall relate to the topic presented and shall not contain any offensive or inappropriate subject matter. A master list of media resources shall be maintained in the school's records.

B. The Louisiana Driver Guide for Class D/E License will include the curriculum utilized in the 30- and 6-hour classroom course and will be made available to students and/or schools from DPS.

C. Core Curriculum

1. Chapter 1: Introduction to Driving. This chapter will describe the requirements to obtain a Louisiana driver's license and general nature of the driving task in the complex highway transportation system (HTS), while recognizing the importance and seriousness of the highway safety problem. The many interactions of the three major elements of the HTS, roads, vehicles and people, result in a large number of diverse traffic situations and problems:

a. Louisiana process for earning the privilege to drive:

- i. age requirements;
- ii. organ donation;
- iii. selective service;
- iv. graduated license program; and

b. highway transportation system:

i. the traffic safety problem (instructional objective—to develop an understanding of the nature of the traffic safety problem and to instill in each student a sense of responsibility for its solution):

(a). identification of the overall traffic problems in the United States and Louisiana, as well as the local jurisdiction where the course is being taught;

(b). death, injuries and economic loss resulting from motor vehicle crashes in Louisiana; and

(c). five leading causes of motor vehicle crashes in Louisiana as identified by the Department of Public Safety and Corrections, Public Safety Services;

- ii. careless and/or reckless operation;
- iii. failure to yield;
- iv. following too closely;
- v. speeding;
- vi. unknown/unspecified;

vii. each year the current statistics can be obtained from <http://datareports.lsu.edu>;

c. driving in the highway transportation system (instructional objective—understanding highway traffic systems and the driver's responsibilities):

- i. make-up of a complex system:
 - (a). number and types of elements;
 - (b). continuous interaction of elements; and
 - (c). need for regulations and control;

- ii. number and types of traffic units:
 - (a). kinds of vehicles and its condition;
 - (b). characteristics of drivers;
 - (c). pedestrians and animals; and
 - (d). traffic volumes and congestion;

- iii. number and types of highways:
 - (a). design features;
 - (b). conditions and maintenance; and
 - (c). environmental settings;

- iv. number and types of traffic controls:
 - (a). signs and signals;
 - (b). roadway markings; and
 - (c). written laws.

2. Chapter 2: Vehicle Components and Operation.

What can a motor vehicle do or not do in a given situation? The more drivers know about a car's maneuvering and performance capabilities, the better they can handle emergencies. Drivers will also be better prepared to predict the probable actions of other drivers:

a. proper use of safety restraint systems:

- i. law of physics:
 - (a). momentum;
 - (b). inertia;
 - (c). kinetic energy;
 - (d). gravity;
 - (e). friction; and
 - (f). force of impact;

ii. proper safety belt position; and

iii. jurisdictional laws and driver responsible for compliance of all passengers in the vehicle;

b. safe and proper use of basic vehicle equipment:

- i. control devices;
- ii. instruments and warning indicators;
- iii. devices that aid visibility;
- iv. safety devices;
- v. comfort devices;
- vi. anti-theft devices;
- vii. communication devices; and
- viii. traction control devices;

c. safe and proper pre-trip checks:

i. maintaining your vehicle (instructional objective—a well maintained vehicle is safer to drive):

- (a). vehicle inspection;
- (b). preventive maintenance—brakes, tires, steering/suspension, under the hood;
- (c). fuel economy—vehicle choice and maintenance, driving habits; and
- (d). planning a trip—preparing vehicle and yourself;

ii. friction:

- (a). speed for conditions;
- (b). effect of road surfaces on stopping;

- (c). seasonal changes and road surfaces; and
- (d). tire types and conditions;
- d. vehicle handling. Safe and responsible vehicle control:
 - i. controlling the vehicle safely and responsibly:
 - (a). hand position;
 - (b). visual tracking;
 - (c). steering control and over steering and understeering;
 - (d). seating position;
 - (e). starting and accelerating;
 - (f). speed control;
 - (g). deceleration and braking and comparison of ABS systems, power brakes and standard actions;
 - (h). changing lanes;
 - (i). parking brake;
 - (j). parking;
 - (k). changing direction and turns;
 - (l). passing;
 - (m). following distance;
 - (n). right-of-way maneuvers;
 - (o). turns;
 - (p). cornering;
 - (q). highway and freeway driving; and
 - (r). urban and rural driving;
 - ii. safe and responsible handling of the vehicle under various conditions:
 - (a). weight management;
 - (b). time management;
 - (c). space management;
 - (d). stopping distances;
 - (e). braking distances;
 - (f). following too closely;
 - (g). speed for conditions;
 - (h). effect of road surfaces on stopping;
 - (i). seasonal changes and road surfaces; and
 - (j). tire types and conditions;
 - iii. safe and responsible driving to avoid crashes:
 - (a). crash avoidance habits and basic evasive maneuvers.

3. Chapter 3: Perception and Risk Management—to Develop Knowledge, Appreciation, and Skills Related to Perception and Risk Management and How They Contribute to Safe and Responsible Driving

- a. Safe and proper observation skills:
 - i. what and where to observe and when:
 - (a). 360 degree vision;
 - (b). distance scanning and judgment;
 - (c). peripheral vision;
 - (d). blind spots;
 - (e). visual obstructions; and
 - (f). limits of observation;
 - ii. how to observe:
 - (a). active attention;
 - (b). shoulder checks;
 - (c). peripheral vision; and
 - (d). mirrors;
 - iii. visual search and scanning to detect potential hazards:
 - (a). distinguish hazards from typical occurrences;
 - (b). scanning patterns under all conditions; and

- (c). detecting potential path deviations;
- iv. potential hazards of driving and effective responses:
 - (a). vehicle malfunctions;
 - (b). weather/environmental conditions;
 - (c). road conditions;
 - (d). railroad crossings;
 - (e). vehicle conditions;
 - (f). distractions inside the vehicle;
 - (g). distractions outside the vehicle;
 - (h). other road users and air turbulence from large vehicles;
 - (i). unpredictable driving behavior;
 - (j). driving error resulting in danger to self and to other road users; and
 - (k). detection and recovery from skidding and sliding—principles of skid control and slide control.
- b. Effective decision making to ensure safe driving:
 - i. hazard perception, decision making, and judgment:
 - (a). scan, identifying problems, predicting outcomes, deciding action and executing decisions (SIPDE);
 - (b). using the SIPDE process—avoiding, separating and handling hazards, managing time, speed and space, following and stopping distance; and
 - (c). trouble spots limiting use of SIPDE process—limited visibility, traction, space;
 - ii. using decision making skills to drive safely:
 - (a). evaluate whether or not to drive;
 - (b). anticipate what might happen;
 - (c). predict possible solutions;
 - (d). prioritize situations and solutions;
 - (e). make appropriate choices under pressure;
 - (f). identify consequences;
 - (g). make multiple decisions quickly; and
 - (h). develop a hierarchy of responses to various situations and alternative responses.

4. Chapter 4: Traffic Laws. Without good traffic laws and enforcement, the safe and efficient movement of traffic on our highways would not be possible. Traffic laws are of little value if they are not understood and voluntarily followed.

- a. Safety
 - i. Traffic laws for safety (instructional objective—familiarization with traffic and vehicle laws and to influence drivers to comply with laws on a voluntary basis):
 - (a). seat belt usage and child restraints;
 - (b). right-of-way rules;
 - (c). speed laws;
 - (d). special safety laws—DWI, implied consent, open container, post-collision procedures;
 - (e). texting/cell phone usage;
 - (f). driving while fatigued/under duress or stress;
 - (g). emergency vehicles; and
 - (h). multi-lane highways and left lane usage.
 - ii. Compliance with traffic control devices as a foundation for safe and responsible driving and traffic control devices:
 - (a). signs;
 - (b). signals;
 - (c). markings; and

- (d). railroad crossings.
- iii. Major traffic law violations:
 - (a). reckless homicide;
 - (b). reckless driving;
 - (c). driving under the influence of alcohol or drugs; and
 - (d). driving without a license.
- b. Other issues:
 - i. other law violations:
 - (a). financial responsibility/compulsory insurance;
 - (b). littering; and
 - (c). possessing, obtaining, or using a fraudulent driver's license, or identification card.
 - ii. Alcohol, other drugs, and driving:
 - (a). drug use and abuse—dangers, cautions, effects;
 - (b). alcohol and the driver—effects; and
 - (c). responsibilities as a driver, passenger, host, person.
- 5. Chapter 5: Driver Behavior—to Develop Knowledge, Appreciation, and Skills Related to Driver Behavior and How It Contributes to Safe, Responsible, and Incident-Free Driving
 - a. Assessment and reactions:
 - i. accurate assessment of driving environments, road conditions and appropriate adjustment of driving behavior:
 - (a). adjusting driving behavior for different driving conditions;
 - ii. controlled emotional reactions related to driving:
 - (a). potential effects on driver decision making; and
 - (b). recognizing internal cues and control responses;
 - iii. positive driving attitudes and behavior.
 - b. Personal factors and influence:
 - i. personal driving values and beliefs;
 - ii. motives that influence driving;
 - iii. how motives change under different circumstances; and
 - iv. how values, beliefs, and motives influence attitudes toward driving.
 - c. Social factors and influence:
 - i. influence of advertising;
 - ii. social attitudes towards cars and driving;
 - iii. influence of other people's driving habits; and
 - iv. peer pressure and driving.
 - d. Resisting negative pressures:
 - i. personal value of resisting negative pressures;
 - ii. resist negative informal pressures;
 - iii. resist negative media and commercial messages; and
 - iv. entertainment media use of driving imagery.
 - e. Positive driving attitudes:
 - i. driving is a privilege not a right;
 - ii. overcoming negative motives;
 - iii. driving courteously;
 - iv. cooperative driving; and
 - v. impact of driver behavior on other road users.

- f. Responsible and informed decision making:
 - i. how formal rules of the road, common safe practices of road users, and informed decision making contribute to safe and responsible driving;
 - ii. approaches to decision making;
 - iii. importance of good decision making; and
 - iv. consequences of poor decision making.
- g. Environmentally conscious and efficient driving behavior:
 - i. fuel efficiency;
 - ii. mandatory emissions testing (inspection stickers);
 - iii. proper disposal of cars, fluids, batteries, and tires;
 - iv. littering;
 - v. planning safer and more efficient activities and routes; and
 - vi. economic benefits of driving efficiently.
- 6. Chapter 6: Sharing the Road. To develop knowledge, appreciation, and skills to related to effectively interacting with other road-users and how it contributes to safe, responsible, and incident-free driving:
 - a. cooperative driving:
 - i. sharing the road in a safe and considerate manner;
 - ii. understanding other road-users needs;
 - iii. passing safely;
 - iv. space management;
 - v. benefits of cooperative and courteous driving;
 - vi. pedestrians, animals and bicycles;
 - vii. sharing the road with school buses;
 - viii. sharing the road with motorcycles and mopeds;
 - ix. sharing the road with commercial vehicles;
 - x. sharing the road with law enforcement and emergency vehicles; and
 - xi. cooperative interstate driving;
 - b. appropriate communication with other road users:
 - i. communicating effectively with other road users; and
 - ii. habits and attitudes related to effective communication;
 - c. consistently communicate driving intentions;
 - d. adjusting communication based on observation of the driving environment and other road users;
 - e. towing a vehicle; and
 - f. safety tips for driving with a trailer.
- 7. Chapter 7: Attention—to Develop Knowledge, Appreciation, and Skills Related to Attention and How It Contributes to Safe, Responsible, and Incident-Free Driving
 - a. Safe and responsible actions related to impaired driving:
 - i. types of impairment:
 - (a). drug;
 - (b). alcohol;
 - (c). fatigue;
 - (d). drowsy driving;
 - (e). illness;
 - (f). medication;
 - (g). mental stress; and
 - (h). combination of multiple impairments;

- ii. effects of impairment:
 - (a). impaired judgment; and
 - (b). lack of attention/alertness;
 - iii. myths and facts related to impairment; and
 - iv. consequences of impaired driving:
 - (a). personal and social consequences—responsibilities of a driver, passenger, host and person; and
 - (b). legal and economic consequences.
 - b. Managed driver distraction:
 - i. distracted driving:
 - (a). distraction inside the vehicle; and
 - (b). distractions outside the vehicle;
 - ii. managing attention:
 - (a). switching attention;
 - (b). divided attention;
 - (c). focused attention; and
 - (d). sustained attention.
8. Chapter 8: Respect and Responsibility—to Develop Knowledge, Appreciation, and Skills Related to Respectful and Responsible Driving Attitudes and How They Contribute to Safe, Responsible, and Incident-Free Driving
- a. Safe and Responsible Response to Emergency Situations
 - i. Responding to emergency situations:
 - (a). minor or major motor vehicle crashes;
 - (b). arriving at the scene of a crash;
 - (c). being stopped by a law enforcement officer, including, but not limited to the following:
 - (i). instruction concerning law enforcement procedures for traffic stops;
 - (ii). instruction on the importance of officers, drivers, and passengers maintain integrity and respect during traffic stops;
 - (iii). demonstrations of appropriate interactions with law enforcement; and
 - (iv). demonstrations of the proper actions to be taken during traffic stops;
 - (d). yielding to an emergency vehicle; and
 - (e). vehicle malfunctions.
 - b. Leadership in Promoting Safe Driving
 - i. Being a safe, respectful, and responsible driver:
 - (a). being a leader in safety restraint use and promote it in others;
 - (b). being fit to drive and promote it in others; and,
 - (c). being caring and empathetic towards other road-users.
 - ii. Conflict avoidance regardless of fault:
 - (a). respecting other road-users' safety margins; and
 - (b). avoiding road rage in yourself and others.
 - c. Respect for the Environment as it Relates to Operating a Vehicle
 - i. Environmentally conscious and efficient driving behavior:
 - (a). fuel efficiency;
 - (b). mandatory emissions testing;
 - (c). proper disposal of cars, fluids, batteries, and tires;
 - (d). littering;
 - (e). planning safer and more efficient activities and routes; and

- (f). economic benefits of driving efficiently.
- d. Lifelong Learning Approach to Driving
 - i. The driver as a lifelong learner:
 - (a). factors that contribute to changes in driving skill;
 - (b). changing motor vehicle technology;
 - (c). changing driving practices and laws; and
 - (d). the aging driving population.
- 9. Chapter 9: Defensive Driving:
 - a. five leading causes of collisions;
 - b. basic maneuvers for avoiding collisions:
 - i. tactical maneuvers; and
 - ii. mental skills;
 - c. major driving errors:
 - i. compensating for another driver's error;
 - d. counter measures for driver physical conditions:
 - i. fatigue;
 - ii. illness;
 - iii. physical impairments;
 - iv. stress; and
 - v. trip fatigue.
- 10. Chapter 10: Summation and Review—Comprehensive Summation of Chapter(s)/Chapter Test(s) and Knowledge Test. Upon completion of the classroom course and review of the chapters, the school shall administer the knowledge test.
- D. Eight-Hour Behind-the-Wheel Curriculum. The behind-the-wheel portion of the curriculum will be limited to no more than 4 hours behind-the-wheel for each student daily with a 15-minute break after 2 hours driving time. There shall be no more than two students in the vehicle with the instructor. Upon completion of the behind-the-wheel portion, a skills assessment shall be performed by the instructor. A road skills test shall be administered and the student shall attain a minimum score of 70 percent or more to receive a certificate of completion.
- 1. Practical instruction shall include, at a minimum, the demonstration of and actual instructions in the following maneuvers:
 - a. vehicle checks:
 - i. pre-trip vehicle inspection—outside/inside vehicle;
 - b. turning skills:
 - i. steering; and
 - ii. turn signals;
 - c. intersection awareness:
 - i. traffic signals;
 - ii. driving through;
 - iii. stops; and
 - iv. right of way laws;
 - d. lane changes;
 - e. signs, lanes, and signals;
 - f. traffic signals;
 - g. space management;
 - h. S.I.P.D.E. process;
 - i. parking skills;
 - j. reversing skills;
 - k. turnabouts;
 - l. city driving;
 - m. expressway;
 - n. areas of high risk:
 - i. shared left turn lane;

- ii. median crossover;
- iii. service roads;
- iv. off-road recovery;
- v. head-on collisions;
- vi. poor weather;
- vii. skid recovery;
- viii. controlled braking; and
- ix. night time driving;
- o. railroad crossings;
- p. emergency vehicles;
- q. school buses; and
- r. breakdown/collision.

2. The instructor shall gauge the driver's proficiency and provide feedback on the following skills:

- a. observation;
- b. communication;
- c. speed adjustment;
- d. vehicle positioning;
- e. time and space management; and
- f. hazard perception.

3. Student Assessment. During the last driving session with the student, the instructor shall perform a skills test to determine the student's ability to safely operate a vehicle. A minimum score of 70 percent shall be attained to pass the driver education course.

4. Upon completion of the eight-hour behind-the-wheel course, the instructor shall complete an in-depth assessment of the student's performance over each maneuver and skills covered above. The assessment shall be provided to the student and parent (if a minor) as a tool to continue driving instruction:

- a. visual search;
- b. space management;
- c. appropriate speed choices;
- d. attention (distractions);
- e. emergency evasive actions;
- f. physical control of the vehicle;
- g. pre-trip preparation;
- h. backing up;
- i. accelerating and braking;
- j. left turn;
- k. right turn;
- l. proper lane usage;
- m. lane change;
- n. obeying traffic signs and signals; and
- o. stopping.

5. The driver education certificate of completion shall be completed when a student has attained a minimum score of 80 percent on the knowledge test and a minimum score of 70 percent on the eight-hour behind-the-wheel portion of the course.

E. Six-Hour Pre-Licensing Course

1. The pre-licensing course requires 6 hours of classroom instruction covering the topics outlined above under Subsection I, "Program of Instruction/Course Content." No more than 1 1/2 hours (25 percent) of the course may consist of audiovisual instruction. A minimum of 4 1/2 hours (75 percent) shall consist of formalized instruction which may be a combination of lecture, computer format plus classroom discussion. The audiovisuals may include such aids as films, slides or videos specifically designed to supplement the formalized instruction.

2. Six-Hour Curriculum. The 6-hour pre-licensing course shall utilize a condensed version of the 30-hour classroom course and shall cover the basic components of each chapter outlined in the 30-hour classroom course.

3. Comprehensive Summation of Curriculum Chapters and Knowledge Test. Upon completion of the classroom course and review of the chapters, the school shall administer the knowledge test.

4. Eight-Hour Behind-the-Wheel Curriculum. The eight-hour behind-the-wheel curriculum shall be done in the same manner and under the same conditions as provided in §154.D.

5. The driver education certificate of completion shall be completed when a student has attained a minimum score of 80 percent on the knowledge test and a minimum score of 70 percent on the eight-hour behind-the-wheel portion of the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1985 (August 2012), amended LR 43:1773 (September 2017).

§155. Third Party Tester/Examiner Requirements

A. R.S. 32:408 requires all driver education providers to become certified as third-party testers. Secondary schools may opt to not perform as third-party testers. All testers/examiners shall:

- 1. meet all the qualifications in §146;
- 2. have at least one licensed examiner; and
- 3. administer the knowledge and road skills tests.

a. At the end of the classroom instruction, the tester/examiner shall administer a knowledge test to each student. The test shall be provided to the examiner by OMV.

b. The tester/examiner shall administer an approved road skills test to an eligible student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1989 (August 2012), amended LR 38:3235 (December 2012), repromulgated LR 39:98 (January 2013), amended LR 40:2603 (December 2014), LR 43:1777 (September 2017).

§156. Application Process and Fees for Third Party Testers/Examiners

A. Each person requesting to be certified by and contract with DPS as a third-party tester shall submit the following:

- 1. completed third-party tester application for class D and E driver's license;
- 2. fees as listed in §146.E-F;
- 3. a certificate of general liability insurance as listed in §157.B.1;
- 4. a certificate of auto liability insurance as listed in §157.B.1;
- 5. a completed application for examiner license;
- 6. a third-party tester route for administering the road skills test to be approved by DPS. The route shall be different from the routes used during any eight-hour behind-the-wheel training.

B. Upon approval of the application, DPS shall offer a contract to the applicant to administer the OMV knowledge test and the road skills test.

C. Each applicant for third-party examiner certification shall:

1. submit an application for third-party examiner;
2. meet the qualifications of an instructor as listed in §145.B and C;
3. submit fees as listed in §146.E-F;
4. attend an examiner training session administered by DPS; and,
5. pass a third-party examiner test administered by DPS.

D. Renewal Application

1. Application packages shall be complete. Any incomplete renewals will be returned.
2. The renewal schedule for third-party testers shall be consistent with driver education provider renewal cycles.
3. The following documents shall be submitted in conjunction with the driver education renewal application:
 - a. fees as listed in §146.E-F;
 - b. a certificate of general liability insurance as listed in §157.B.1;
 - c. a certificate of auto liability insurance as listed in §157.B.1; and
 - d. a third-party tester contract;
4. any tester that fails to renew his license/contract within six months of license or contract expiration shall be required to begin the initial application process again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1990 (August 2012), amended LR 40:2603 (December 2014), LR 43:1777 (September 2017).

§157. General Regulations for Third Party Testers

A. General Regulations

1. All personnel shall conduct themselves in a professional manner at all times.
2. All third-party examiners shall comply with and abide by all applicable statutes and regulations as well as all terms of the contract executed by the third-party tester or third-party examiner and DPS.
3. The school shall agree to permit DPS representatives to inspect the school and shall make available to DPS, when requested to do so, full information pertaining to the testing operation. Upon request, the school shall provide photo copies of the school's records required by DPS.
4. A representative of the Federal Highway Administration and/or a DPS representative may conduct random examinations, inspections, and audits without prior notice.
5. The facility shall conspicuously display the Third Party Tester certificate in the business during operational hours.
6. The tester and/or examiner shall not assist a person in obtaining a driver's license by deceptive practices.
7. The tester and/or examiner shall not state or imply that upon completion of the road skills test, the securing of a driver's license is guaranteed or assured.
8. A DPS representative shall biennially take a road skills test administered by the licensed third-party examiner or test a sample of drivers who were examined by the third-party to compare pass/fail results.

9. A third-party tester/examiner shall not administer any road skills tests until authorized to do so by DPS.

10. If at any time, a third-party tester/examiner ceases to meet any requirement imposed by statute, the regulations, or the contract, the third-party tester or third-party examiner shall immediately cease all testing.

11. Each student administered the road skills tests shall be notified, prior to testing, that he is subject to being retested by OMV at any time.

12. Private driving schools shall administer road skills tests to all of the general public. Authorized secondary school driver education program providers shall administer road skills tests only to students enrolled in its school or its driver education program.

13. Each third-party tester shall retain at least one certified third-party examiner in their employ at all times.

B. Safety and Insurance

1. Testers shall furnish DPS satisfactory proof of certificates of liability insurance in the school's name with the school's address. Policy dates on all certificates forwarded to DPS shall be current. Insurance shall be issued from an insurance carrier authorized to do business in Louisiana. For any renewals, changes, cancellations or expirations of the insurance policy, the insurance carrier shall notify OMV. Testers shall maintain the following:

- a. general liability insurance policy with minimum liability limits of \$1,000,000 per occurrence. All tester addresses shall be listed on the policy;
- b. the limits shall be \$500,000 in auto liability and identify (by description and vehicle identification number) the vehicle(s) covered. For vehicle qualifications, see §151.F:

- i. testers may, at their discretion, use the applicant's vehicle for the road skills test. The vehicle must be covered with liability insurance. Proof of insurance coverage must be presented to the examiner prior to administering the road skills test. Proof of insurance must contain the insurance company's name, policy number, current policy period, description of the vehicle (year, make and VIN) and the applicant may not be an excluded driver.

2. The certificates of liability insurance must list OMV as a certificate holder or additional insured with the following address:

Office of Motor Vehicles
Attn: Training and Certification Unit
P.O. Box 64886
Baton Rouge, LA 70896-4886

3. In the event a driving school is covered under a fleet policy and desires to add another vehicle to its fleet, the driving school shall advise the insurance company to notify DPS.

C. Knowledge Test

1. Passing the final examination in the driver education course shall qualify the student for license/permit issuance. The student must pass the knowledge test with a minimum score of 80 percent.

2. The same knowledge test shall be utilized for those taking the 6-hour pre-licensing course or the 30-hour classroom course.

3. All copies of the test shall be kept under lock and key or password protected at all times. Photocopies of the test should be produced at the completion of the course as needed.

4. The classroom instructor shall ensure that students seated next to each other have different versions of the test to complete.

5. The completed test shall be attached to the certificate of completion for surrender to DPS at the time of license application. Both documents shall be placed in a sealed envelope.

6. Schools and/or instructors that provide students with the answers to the test, teach only the information contained on the test, do not properly secure the tests, and assist a student to pass the final exam by deceptive practices or accept bribes to give a student a passing score shall be subject to having their license/certification revoked.

7. Any student who fails the final exam shall be allowed to re-test once the same day. If the student does not pass the test on the second attempt, the student may return any day thereafter (depending on instructor availability) and re-test twice each day until the test is passed.

8. The tester and/or examiner shall not assist a student pass the final examination by any deceptive practices. Any school or instructor who assists a student shall be subject to having their license/certification revoked.

9. Each student who is administered the final knowledge test shall be notified prior to testing that he is subject to being re-tested by OMV at any time.

10. Lost or stolen knowledge tests shall be reported to OMV immediately. If a theft or suspected theft has occurred, the local law enforcement agency shall also be notified and a police report sent to OMV.

D. Road Skills Testing Preparation Policies

1. Each applicant shall be required to present proof of identity as outlined in OMV's policy along with the completed Test History Form provided by OMV.

2. The legal custodial/domiciliary parent/guardian of an applicant under the age of 18 shall sign a consent statement, provide proper identification and provide proof that he or she is the legal custodial/domiciliary parent/guardian.

3. All applicants shall sign the Disclosure of Terms Form supplied by OMV. If the applicant is under the age of 18, the legal custodial/domiciliary parent/guardian shall also sign. This form shall be kept in the files.

4. The fee for a road skills test shall not exceed \$40. This fee shall cover all expenses including the costs of the original and a copy of the road skills test certificate provided to each applicant.

5. A copy of the certificate shall be placed in the applicant's file and maintained by the tester for a minimum of five years.

6. The examiner may refuse to administer the road skills test at any time he determines the condition of the applicant, roads or weather to be unsafe.

E. Road Skills Testing Administration Policies

1. Only examiners who have been approved and certified by DPS shall administer road skills tests. Only examiners who are certified adaptive driver trainers shall administer road skills tests to applicants who require adaptive equipment, including bioptic telescopic lenses.

2. Only the applicant, examiner, examiner's supervisor, DPS representative, or interpreter, if necessary,

are allowed in the vehicle when a road skills test is being administered.

3. Each driving course layout shall include (as a minimum) the following for scoring purposes:

- a. two stop signs (one with an obstructed view, if possible);
- b. two traffic lights;
- c. two lane changes;
- d. two intersections, without a turn;
- e. two reversal procedures:
 - i. into and out of a parking space;
 - ii. three point turn;
- f. three left turns, one of which includes a left turn onto a multiple-lane roadway;
- g. three right turns, one of which includes a right turn onto a multiple-lane roadway; and
- h. one parking maneuver.

4. If a maneuver is not able to be performed within a reasonable driving distance from the testing facility due to roadway conditions, the maneuver may be omitted from the test route with prior written approval from OMV.

5. During the road skills test, each third-party examiner shall measure the applicant's performance in each of the following operational skills:

- a. observing;
- b. communicating;
- c. speed adjustment;
- d. vehicle positioning;
- e. time and space judgment; and
- f. hazard perception.

6. Standardized instructions shall be utilized when conducting a road skills test.

7. Approved scoring criteria shall be standardized, as determined and approved by DPS. Each applicant starts with 100 points. The applicant shall receive 80 points or better to pass. If the applicant fails due to inexperience, the examiner may recommend a learner's permit.

8. If using a vehicle with a dual brake, it shall be an automatic failure of the test if the examiner has to use the brake for any reason.

9. The driving school shall be required to administer road skills tests to the general public.

10. Third-party testers will set the hours and conditions under which the facility will provide the road skills test.

F. Record Keeping

1. The following information shall be maintained in the records, in date order, by month, and shall be maintained for five years from the date of the road skills test:

- a. completed application for road skills test (DPSMV2271);
- b. completed discourse of terms for applicants (DPSMV2273);
- c. completed road skills driving test (DPSMV2005A);
- d. completed test history form (DPSMV30059) furnished by DPS, if applicable; and
- e. completed road skills test certificate (DPSMV2272), if applicable.

2. Every third-party tester shall maintain an ascending numerical accounting record of all certificates issued. Every

tester will self-issue certificate numbers for each road skills test in the manner prescribed by DPS.

3. A road skills test log shall be maintained with the tester files. The examiner will record each road skills test including the applicant's name, the examiner's name, the time in/out for the test and indicating whether the test was passed or failed.

4. Every third-party tester shall maintain a monthly report of skills tests performed which shall include:

- a. the number of road skills tests;
- b. the monthly log;
- c. the vehicle inspection form; and
- d. applications for road skills tests.

5. The six month reports shall be submitted to OMV biennially by the 10th of January and the 10th of July.

6. In secondary school programs, if oversight for the driver education program is provided at the system level, the system shall determine the location where the records shall be kept. All records shall be maintained at a central location which provides DPS access during daytime hours.

7. All records and necessary data pertaining to the operation of the tester shall be maintained in the office in chronological month order and shall be available for inspection upon request by any law enforcement officer or DPS representative. All records shall be maintained in hard copy (original) for one year and may be transferred to an electronic after the one-year period.

G. Road Skills Test Certificate (DPSMV2272) Requirements

1. Road skills test certificates shall be issued only to applicants who complete a road skills test with an approved third-party tester.

2. If an applicant does not pass the road skills test, a certificate may be issued with comments to add an "02" restriction for issuance of a learner's permit only.

3. Lost or stolen road skills test certificate forms shall be reported to OMV immediately. The local law enforcement agency shall also be notified and a police report submitted to OMV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 32:408.1, and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1990 (August 2012), amended LR 38:3235 (December 2012), LR 40:2603 (December 2014), LR 43:1778 (September 2017).

§158. Military Exemption [Formerly §159]

A. Any active duty military person who never been licensed in this state or another state, upon proving his active duty status, may submit proof of completion of military driver training, which is essentially equivalent to the training required in this Part, in lieu of providing the certificate of completion required by this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 32:408.1, and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1990 (August 2012), amended LR 38:3235 (December 2012), LR 43:1780 (September 2017).

§159. Suspension, Revocation and Penalty Assessment

A. All regulations outlined in this Chapter shall be adhered to by the driving school and its employees. DPS may fine, suspend or revoke any driving school license, instructor license, examiner license, owner license or third-party tester agreement issued under these rules and regulations upon discovery of satisfactory evidence of violations. If the violation involves the owner of the driving school or other management staff, then the driving school may be assessed fines, or the license may be suspended or revoked, or both. If the violation involves the instructor, then the instructor may be assessed fines, or the license may be suspended or revoked, or both. Fines may be assessed up to \$1500 per rule or statute violated. If the fine is not paid within 30 days of the mailing of the notice of the fine, the license may be suspended or revoked.

1. Any instructor whose driving privileges have been suspended or revoked is subject to having his instructor's license suspended or revoked.

2. Any behind-the-wheel instructor who has been arrested for driving while intoxicated or operating a vehicle while under the influence of alcohol or drugs, shall be immediately suspended and shall remain suspended until a final disposition of the charges are received by DPS.

3. The license of any instructor arrested for any crime enumerated in R.S. 15:587.1(C) (the Child Protection Act) shall immediately be suspended and shall remain suspended until a final disposition of the charges are received by DPS.

4. Instructors who are arrested and indicted, or both, for any disqualifying offense listed in Section 145 shall be suspended and their license will remain suspended until final disposition of the offense has been received by DPS.

5. In the event a driving school owner's license or a driving school instructor's license issued pursuant to this Chapter is revoked, he shall not be involved in the administrative duties of the school.

B. Appeal Rights

1. Notice of Suspension, Revocation or Fine

a. A currently licensed owner/instructor whose license and third-party tester agreement is revoked or suspended shall be notified in writing by DPS either by email or mail.

2. General Provisions

a. Except as otherwise provided by these rules, any notice shall be served by certified mail, return receipt requested, or hand delivered to the permanent address that is provided in the application or latest amendment thereto, on file with DPS. Notice shall be presumed to have been given in the event an incorrect or incomplete address is supplied to DPS by the applicant or if the applicant fails to accept properly addressed certified mail.

b. Any fine levied by DPS which is adjudicated to a final administrative judgment shall be paid within 10 business days of said judgment becoming final. Failure to pay such a fine within 10 business days may serve as grounds to suspend or revoke any license or contract under this Part.

c. In cases of serious violations of the law or these rules, or in situations in which the law calls for prompt suspension or revocation, or violations which present a danger to the public health, safety or welfare, DPS may provide notice. Such notice shall be promptly documented and confirmation in writing shall be provided to the applicant.

d. Any request for an administrative hearing for a fine, suspension or revocation of a license or third-party tester agreement shall be made in writing and sent to DPS (Training and Certification Unit, P.O. Box 64886, Baton Rouge, LA 70896) within 30 calendar days. The action

and/or penalty shall become final if the request for an administrative hearing is not submitted timely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A) (1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 43:1780 (September 2017).

Karen St. Germain
Commissioner

1709#017

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services Division of Family Support Child Support Enforcement Section

Collection and Distribution of Support Payments (LAC 67:III.2514)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Children and Family Services (DCFS), Division of Family Support proposes to amend the LAC 67:III, Subpart 4, Child Support Enforcement, Chapter 25, Subchapter D, Section 2514, Distribution of Child Support Collections, which provides for distribution of support payments.

In accordance with R.S. 46:236.1.2, this Rule allows DCFS to broaden the remedies available to distribute child support. This Rule provides for the disbursement of child support collections to satisfy another LASES/member debt that the noncustodial parent (NCP) owes, when a refund is due and the funds cannot be distributed to the NCP. In addition, this Rule offers deserving children, including those children who reside outside of the state, the opportunity to receive support payments that they would not otherwise be entitled to receive without DCFS taking action to recover the payments. This Rule will also increase child support collections for families and raise the level of self-sufficiency ensuring the children receive more financial support.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 4. Child Support Enforcement

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2514. Distribution of Child Support Collections

A. - B. ...

C. For any refund payment issued to a noncustodial parent, DCFS, CSE will make at least one attempt to issue the money to the NCP. If the attempt is unsuccessful, CSE will take action to ensure the amount of the payment will be distributed to any other child support debt or recovery debt owed by the noncustodial parent in accordance with distribution rules in Subsection A of this Section or forward the payment to the Unclaimed Property Division of the Louisiana Department of the Treasury.

D. A check distributed by DCFS, CSE will be considered stale dated when the check has not been cashed or negotiated after 180 days of issuance. An electronic funds transfer transaction that is rejected within 3-5 days by the receiving financial institution will be considered eligible to be applied to other LASES/member debts owed, once diligent efforts to distribute the payment to the noncustodial parent fails and

the payment has been held in suspense for more than 180 days from issuance. Stale dated checks issued to the noncustodial parent will be placed in suspense and distributed to other LASES/member debts owed by the NCP in accordance with the distribution rules in this section or held in suspense for one year from the date the payment was received by DCFS, CSE. The refund payments issued to the NCP which were not applied to other LASES/member debts will be forwarded to the Unclaimed Property Division of the Louisiana Department of the Treasury after 457 days has expired.

E. Effective April 25, 2005, when child support is collected in the form of a foreign currency, the state shall send the child support payment to the custodial parent within two business days of receipt of the converted U.S. dollar payment.

F. CSE may exercise authority granted by the law to distribute child support payments to other cases as deemed necessary to fulfill other IV-D functions as outlined in R.S. 46:236.1.2.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, OCSE-AT-98-24, 42USC,664(a)(3)(B), 42 USC 654b(c).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997, amended LR 24:703 (April 1998), LR 25:320 (February 1999), LR 31:2266 (September 2005), amended by the Department of Children and Family Services, Division of Family Support, Child Support Enforcement Section, LR 43:

Family Impact Statement

1. What effect will these rules have on the stability of the family? The proposed Rule will have a positive effect on the stability of the family by allowing payments from the noncustodial parent to be distributed to the NCP's other cases for the children who would not have previously received those payments.

2. What effect will these rules have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will these rules have on the functioning of the family? The proposed Rule will provide revenue which may be used to support children.

4. What effect will these rules have on family earnings and family budget? The proposed Rule will provide additional revenue to families who are owed child support.

5. What effect will these rules have on the behavior and personal responsibility of children? The proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in these proposed rules? The proposed Rule does not create a function which requires performance by the family or local government.

Poverty Impact Statement

1. What effect will these rules have on household income, assets and financial security? The proposed Rule will further the department's potential to increase the household income, assets and financial security of child(ren) living separate and apart from one or both parents.

2. What effect will these rules have on early childhood development and preschool through postsecondary education development? The proposed Rule will have no effect on early childhood development and preschool through postsecondary development.

3. What effect will these rules have on employment and workforce development? The proposed Rule will have no effect on employment and workforce development.

4. What effect will these rules have on child and dependent care, housing, health care, nutrition, transportation and utilities assistance? The proposed Rule will have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

1. What effect will this Rule have on the staffing level requirements or qualifications to provide the same level of service? The proposed Rule will have no effect on staffing level requirements or qualifications to provide the same level of service.

2. What effect will this Rule have on the total direct and indirect effort on the cost to the provider to provide the same level of service? The proposed Rule will decrease both the direct and indirect effort required to provide the same level of service through redistribution of stale dated funds to the family.

3. What overall effect will this Rule have on the ability of the provider to provide the same level of service? The proposed Rule will increase the ability to provide service by redistributing stale dated funds to the family.

Public Comments

All interested persons may submit written comments through October 24, 2017 to Sammy Guillory, Deputy Assistant Secretary of Family Support, Department of Children and Family Services, Post Office Box 94065, Baton Rouge, LA, 70804.

Public Hearing

A public hearing on the proposed Rule will be held on October 24, 2017 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-129, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Collection and Distribution of Support Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is estimated to cost the Department of Children and Family Services (DCFS) \$1,278 for the publication of the notice and \$23,600 to make programming changes to the current computer system. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change. The proposed rule amends the *Louisiana Administrative Code*, Title 67, Part III Subpart 4, Support Enforcement Services, Chapter 25, Subchapter D, Section 2514, Collection and Distribution of Support Payments to authorize DCFS to redirect excess collections of child support payments. More specifically, the amendment states that if DCFS is unable to issue a refund to a noncustodial parent (NCP), the funds will be applied to any other child support debt owed by the NCP. If no other debt is owed by the NCP, then the funds will be forwarded to the Unclaimed Property Division of the Louisiana Department of Treasury.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent that funds are forwarded to the Unclaimed Property Division of the Louisiana Department of Treasury, those revenues revert to the State General Fund. However, the Louisiana Department of Treasury will have the obligation to return the funds to the NCP if a property claim is made.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

To the extent that DCFS is unable to issue a refund to a NCP due to excess collections, then the funds will be distributed to a different case for which the NCP has an arrearage, if applicable, or forwarded to the Unclaimed Property Division of the Louisiana Department of Treasury. Based on existing rule, the funds would have remained in suspense at DCFS and not be applied to another case. Therefore, it is anticipated that the proposed rule change will have an economic benefit to the custodial parent who is due arrears.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not have an effect on competition and employment.

Sammy Guillory
Deputy Assistant Secretary
1709#057

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:XI.6115)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 118—Statewide Assessment Standards and Practice: §6115, Performance*

Standards. Performance standards for LEAP English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form. The proposed revisions to *Bulletin 118—Statewide Assessment Standards and Practices*, update the social studies scaled score range from 100-500 to 650-850.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 61. Louisiana Educational Assessment Program

Subchapter B. Achievement Levels and Performance Standards

**§6115. Performance Standards
[Formerly LAC 28:CXL.1115]**

A. Performance standards for LEAP English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form. The scaled scores range between 100 and 500 for science, and between 650 and 850 for English language arts, mathematics, and social studies.

B. LEAP Achievement Levels and Scaled Score Ranges—Grade 4

1. English Language Arts, Mathematics, and Social Studies

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range
Advanced	790-850	796-850	405-500
Mastery	750-789	750-795	360-404
Basic	725-749	725-749	306-359
Approaching Basic	700-724	700-724	263-305
Unsatisfactory	650-699	650-699	100-262

2. Social Studies

Achievement Level	Social Studies					
	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8
Advanced	777-850	783-850	782-850	773-850	777-850	780-850
Mastery	750-776	750-782	750-781	750-772	750-776	750-779
Basic	725-749	725-749	725-749	725-749	725-749	725-749
Approaching Basic	695-724	696-724	700-724	698-724	704-724	700-724
Unsatisfactory	650-694	650-695	650-699	650-697	650-703	650-699

C. LEAP Achievement Levels and Scaled Score Ranges—Grade 8

1. English Language Arts, Mathematics, and Social Studies

Achievement Level	English Language Arts Scaled Score Range	Mathematics Scaled Score Range	Science Scaled Score Range
Advanced	794-850	801-850	400-500
Mastery	750-793	750-800	345-399
Basic	725-749	725-749	305-344
Approaching Basic	700-724	700-724	267-304
Unsatisfactory	650-699	650-699	100-266

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1536 (July 2005),

amended LR 32:235 (February 2006), LR 42:225 (February 2016), LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., October 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand-delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 118—Statewide Assessment Standards and Practices**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no effect on costs or savings to the state.

Performance standards for LEAP English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form. The proposed revisions update the social studies scaled score range from 100-500 to 650-850 to match that of English language arts and mathematics.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1709#019

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools (LAC 28:CXXXIX.103, 512, 513, 515, 1303, 1503, 2303, 2709, 2713, 2801, and 2802)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 126—Charter Schools*: §103, Definitions; §512, Application Process for Locally Authorized Charter Schools; §513, Stages of

Application Cycle for BESE-Authorized Charter Schools; §515, Charter School Application Components; §1303, Extension Review; §1503, Charter Renewal Process and Timeline; §2303, Local Education Agency (LEA) Status and Federal Funding; §2709, Enrollment of Students, Lottery, and Waitlist; §2713, Required Student Enrollment Percentages; §2801, Transportation Requirements; and §2802, Corporal Punishment. The proposed revisions align policy with laws recently enacted by the Louisiana Legislature.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§103. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever they appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or

2. a different definition is prescribed for a particular provision.

Appropriate Technical Infrastructure—any servers, programs, internet access, and/or management systems that allow user interaction, provide sufficient bandwidth to host courses or online services, and sustain peak periods of usage without a reduction in performance.

BESE and/or *Board*—the state Board of Elementary and Secondary Education as created by the Louisiana Constitution and the *Louisiana Revised Statutes*.

Charter—the agreement and authorization to operate a charter school, which includes the charter contracts and exhibits.

Charter Operator—the nonprofit corporation or school board authorized to operate a charter school.

Charter School—an independent public school that provides a program of elementary and/or secondary education established pursuant to and in accordance with the provisions of the Louisiana charter school law to provide a learning environment that will improve pupil achievement.

Charter School Application—the proposal submitted to BESE, which includes but is not limited to, responses to questions concerning:

- i. a charter school's education program;
- ii. governance, leadership, and management;
- iii. financial plan; and
- iv. facilities.

Charter School Law—Louisiana laws, R.S. 17:3971 et seq., governing the operation of a charter school.

Chartering Authority—a local school board or the state Board of Elementary and Secondary Education.

Core Subject—shall include those subjects defined as core subjects in Bulletin 741.

Department of Education or *LDE* or *Department*—the Louisiana Department of Education. The Department of Education includes the recovery school district, or RSD, where references are made to type 5 charter schools.

Domicile—the place where the student predominantly sleeps, takes meals, and maintains personal belongings.

Hearing Officer—the individual assigned by BESE to perform adjudicatory functions at charter school revocation hearings.

Instructional and Communication Hardware—any equipment used to ensure students can access and engage with the educational program (e.g., headphones, wireless air cards, learning management systems, web-based communication tools).

Instructional Coach—a parent or guardian, extended adult family member, or other adult designated by the parent or guardian who works in person with each virtual charter school student under the guidance of the Louisiana-licensed professional teacher.

Legal Custody—the legal status created by a court order which establishes in a custodian the right to have physical custody of the child. Custody for educational purposes only or provisional custody by mandate will not be accepted.

Local School Board—any city, parish, or other local education agency.

Management Organization—a for-profit company that manages academic, fiscal, and operational services on behalf of boards of directors of BESE-authorized charter schools through contractual agreements.

Public Service Organization—any community-based group of 50 or more persons incorporated under the laws of this state that meets all of the following requirements:

i. has a charitable, eleemosynary, or philanthropic purpose; and is qualified as a tax-exempt organization under section 501(c) of the United States *Internal Revenue Code* and is organized for a public purpose.

State Superintendent—the superintendent of education, who is the chief administrative officer of the Louisiana Department of Education, and who shall administer, coordinate, and supervise the activities of the department in accordance with law, regulation, and policy.

Technical Access—computer and internet availability sufficient to ensure access for all students.

Virtual School—an educational program operated for a minimum of one academic year and covering specified educational learning objectives for the purpose of obtaining a Louisiana-certified diploma, the delivery of such a program being through an electronic medium such that the students are not required to be at a specific location in order to receive instruction from a teacher, but instead access instruction remotely through computers and other technology, which may separate the student and teacher by time and space. This does not preclude the ability of said program to host face-to-face meetings, including field trips, extracurricular activities, conferences between the student, parents, and teachers, or any such related events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008), amended LR 37:867 (March 2011), LR 37:2383 (August 2011), LR 38:37 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 39:3062 (November 2013), LR 40:1321 (July 2014), LR 42:1018 (July 2016), LR 43:

Chapter 5. Charter School Application and Approval Process

§512. Application Process for Locally Authorized Charter Schools

A. Application Cycle

1. Local school boards shall accept charter applications from applicants according to the local district timeline established by the department and approved by BESE. Local school boards may request supplementary materials once the initial application has been submitted. Final decisions regarding the approval of charter applications must be made by local school boards according to the local district charter application timeline. Notifications of charter proposal denied shall include written explanation of the reasons for such denial.

2. ...

3. The local board shall send to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which the local board will take action on the charter proposal.

4. If a proposal is not approved by the local school board and then also not approved by BESE within the same approval cycle, then the proposal shall be submitted to the local school board for its consideration during the next approval cycle prior to being submitted to the state board.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3982, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 37:869 (March 2011), amended LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:3118 (December 2012), LR 39:81 (January 2013), LR 40:761 (April 2014), LR 43:

§513. Stages of Application Cycle for BESE-Authorized Charter Schools

A. - D. ...

E. BESE shall send to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which the board will take action on the charter proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 37:869 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:3118 (December 2012), LR 39:1431 (June 2013), LR 43:

§515. Charter School Application Components

A. - F. ...

G. Type 1 and type 2 charter school applications shall describe how the charter school will serve the percentage of required students defined in the charter school law and in §2713 of this bulletin.

H. - H.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008), amended LR 37:869 (March 2011), LR 37:2383 (August 2011), LR 38:38 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 38:3118 (December 2012), LR 39:1432 (June 2013), LR 43:

Chapter 13. Charter Term

§1303. Extension Review

A. - B.1.a.i.(c).(iii). ...

ii. For the 2017 extension process, in addition to the 2017 school performance score and letter grade, the department shall calculate a school performance score and letter grade for each charter school being considered for extension based on the formula that will be utilized for the 2018 school performance score and letter grade formula. The school performance score and letter grade that result in the better outcome for the charter school shall be considered by the department and BESE for extension purposes.

2. - 3.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:2387 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1435 (June 2013), LR 39:3065 (November 2013), LR 40:1322 (July 2014), LR 41:1264 (July 2015), LR 43:

Chapter 15. Charter Renewal

§1503. Charter Renewal Process and Timeline

A. - B.5.b. ...

6. For the 2017 renewal process, in addition to the 2017 school performance score and letter grade, the department shall calculate a school performance score and letter grade for each charter school being considered for renewal based on the formula that will be utilized for the 2018 school performance score and letter grade formula. The school performance score and letter grade that result in the better outcome for the charter school shall be considered by the department and BESE for renewal purposes.

7. If, in the state superintendent's judgment, the non-renewal of a charter school that does not meet the criteria for renewal in its initial or subsequent charter term would likely require many students to attend lower performing schools, and the state superintendent recommends its renewal, the charter may be renewed for a term not to exceed three years. Prior to recommending such renewal, the state superintendent must demonstrate that efforts to find a new, high-quality operator for the school were unsuccessful.

C. - G3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), LR 43:

Chapter 23. Charter School Funding

§2303. Local Education Agency (LEA) Status and Federal Funding

A. - B.2.d. ...

e. The local superintendent and the department shall work together to coordinate each entity's reporting requirements for a charter school considered its own LEA in order to streamline and minimize duplication of reporting by the charter school. Upon written request by the local superintendent, the department shall, to the extent permitted by state and federal law, share data reported to the department by a charter school authorized by the local school board and acting as its own LEA. The written request shall include the specific data requested, whether the data will be needed on an ongoing basis, an explanation of the necessity and intended use of the data requested, and a plan for protecting the privacy and security of such data in accordance with applicable laws and regulations.

B.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.7.1, R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:3251 (December 2013), LR 40:1324 (July 2014), LR 43:309 (February 2017), LR 43:636 (April 2017), LR 43:

Chapter 27. Charter School Recruitment and Enrollment

§2709. Enrollment of Students, Lottery, and Waitlist

A. - E. ...

F. A charter school lottery and continued admission of applicants, following a determination that a lottery is not required at the conclusion of the student application period, shall be performed in such a fashion that assures compliance with student population requirements detailed in §2713 of this bulletin. Nothing herein shall preclude the implementation of a weighted lottery to ensure such student population requirements are met.

G. - K. ...

L. Any charter school may directly enroll the child of a faculty member if the child meets all admission requirements of the school. Any charter school with a foreign language immersion mission may directly enroll the child of a foreign consular officer who resides in Louisiana if the child meets all mission-related and academic admission requirements for the school. Such children shall not be counted for the purposes of determining whether such enrollment exceeds the capacity of a program, class, grade level, or school. A charter authorizer that uses a common application and enrollment process for its charter schools shall adopt uniform policies and/or procedures to implement this Subsection, but such policies and procedures shall not limit the ability of the charter school to exercise the authority to enroll such children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021

(April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015), LR 43:310 (February 2017), LR 43:

§2713. Required Student Enrollment Percentages

A. Charter schools shall maintain required student enrollment percentages as provided in this Section, based on the demographic information collected in the October 1 pupil membership.

B. The following definitions shall apply in this Section.

Economically Disadvantaged—any one of the following characteristics of a student:

- a. is eligible for the Louisiana food assistance program for low-income families;
- b. is eligible for the Louisiana disaster food assistance program;
- c. is eligible for the Louisiana program for assistance to needy families with children to assist parents to becoming self-sufficient;
- d. is eligible for the Louisiana healthcare program for families and individuals with limited financial resources;
- e. is eligible for reduced price meals based on the latest available data;
- f. is an English language learner;
- g. is identified as homeless or migrant pursuant to the McKinney-Vento Homeless Children and Youth Assistance Act and the Migrant Education Program within the Elementary and Secondary Education Act;
- h. is incarcerated with the office of juvenile justice or in an adult facility; and/or
- i. has been placed into the custody of the state.

Students with Exceptionalities—students identified as having one or more exceptionalities, as defined in R.S. 17:1942, not including gifted and talented.

C. Unless otherwise explicitly stated in the charter school's contract, or otherwise provided by charter law, each charter school created as the result of a conversion during or prior to the 2011-2012 school year shall maintain the following student enrollment percentages:

1. the charter school percentage of economically disadvantaged students shall be greater than or equal to the percentage of economically disadvantaged students enrolled at the school in the school year prior to the establishment of the charter school; and
2. the charter school percentage of students with exceptionalities shall be greater than or equal to the percentage of students with exceptionalities enrolled at the school in the school year prior to the establishment of the charter school.

D. Except as otherwise provided by charter law, each charter school created as a new school and each charter school created as a result of a conversion after the 2011-2012 school year shall maintain the following student enrollment percentages:

1. the charter school percentage of economically disadvantaged students shall be greater than or equal to 85 percent of the percentage of economically disadvantaged students from the local public school districts from which the charter school enrolls; and
2. the charter school percentage of students with exceptionalities shall be greater than or equal to 85 percent of the percentage of students with exceptionalities from the local public school districts from which the charter school enrolls.

E. For the purpose of Subsection D of this Section, the department shall determine the percentages of economically disadvantaged students and students with exceptionalities from local public school districts as follows.

1. For charter schools in operation prior to July 1, 2016, the student enrollment percentages shall be based on the October 1, 2015 pupil membership count and shall remain fixed until the charter school's contract is renewed, unless otherwise provided for in existing charter contracts.

2. For charter schools beginning an initial or renewal charter contract term on or after July 1, 2016, the student enrollment percentages shall be based on the pupil membership counts from the school year immediately preceding the beginning of the charter contract term and shall remain fixed during the charter contract term.

F. The department shall perform all calculations necessary to implement this Section.

G. Annually, the department shall make a report to BESE on the student enrollment percentages detailed in this Section for all public schools and local education agencies.

H. ...

1. conducting an inquiry to determine all actions taken by the charter school to attempt to meet the requirements and the reasons for such failure; and

2. providing a written notice to the charter school that provides a process or actions to address the deficiencies and adequately meet the needs of students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 40:1325 (July 2014), LR 42:550 (April 2016), LR 43:310 (February 2017), LR 43:

Chapter 28. Operations

§2801. Transportation Requirements

A. - D. ...

E. Each type 5 charter school located in Orleans Parish shall provide free transportation services for all students enrolled in the charter school who reside within Orleans Parish and more than 1 mile from the charter school's location, which shall include, at a minimum:

1 - 3. ...

F. Each school bus used to transport students to charter schools in Orleans Parish shall contain lettering identifying the name of the school or schools for which it transports students. The lettering shall be black and in block form. The lettering shall be placed on both sides of the bus as high as possible to provide maximum visibility.

G. Each charter school operator shall adopt policies and procedures or shall make provision in its bus transportation service agreement to do all of the following:

1. prohibit a bus driver from loading or unloading students at school while the bus is in a traffic lane of any type of street as defined in R.S. 32:1 and require that students be loaded or unloaded on a shoulder, in a school parking lot, or at other appropriate off-road location at the school as determined by the school governing authority. The requirements of this Paragraph shall not apply if the shoulder of a municipal road is the only available alternative and the municipality has not made the shoulder available by designating that area for loading and unloading students during designated school zone hours;

2. prohibit a bus driver from loading or unloading students at or near their homes while the bus is in a traffic lane of any type of street as defined in R.S. 32:1 and require that students be loaded or unloaded on a shoulder unless the governing authority determines that loading or unloading on a shoulder is less safe for the student. However, if there is no shoulder or if the shoulder is determined to be less safe, a bus driver may load and unload a student while the bus is in a lane of traffic, but only if the bus is in the lane farthest to the right side of the road so that there is not a lane of traffic between the bus and the right-side curb or other edge of the road;

3. prohibit a bus driver from loading or unloading a student in a location on a divided highway such that a student, in order to walk between the bus and his home or school, would be required to cross a roadway of the highway on which traffic is not controlled by the visual signals on the school bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:158, R.S. 17:3981, and 17:3996(B)(37).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:1266 (July 2015), amended LR 42:551 (April 2016), LR 43:

§2803. Corporal Punishment

A. A charter school shall have discretion with respect to the use of corporal punishment; however, no form of corporal punishment shall be administered to a student with an exceptionality, excluding gifted and talented, as defined in R.S. 17:1942, or to a student who has been determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.

B. Corporal punishment means using physical force to discipline a student, with or without an object, and includes hitting, paddling, striking, spanking, slapping, or any other physical force that causes pain or physical discomfort.

C. Corporal punishment does not include:

1. the use of reasonable and necessary physical restraint of a student to protect the student or others, from bodily harm or to obtain possession of a weapon or other dangerous object from a student; or

2. the use of seclusion and restraint as provided in R.S. 17:416.21.

D. Should a charter school permit corporal punishment, the school shall adopt such rules and regulations necessary to implement and control such punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:416.1, R.S. R.S. 17:3981, and 17:3996(B)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., October 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand-delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received.

Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 126—Charter Schools**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

School districts could experience a reduction in student enrollment to the extent the proposed changes allow charter schools to increase enrollment, thereby reducing the level of MFP funding for the impacted district.

Pursuant to legislation adopted in 2017, the proposed policy revises multiple provisions related to charter schools including: the application process for local charter schools (Act 207); admission requirements (Act 253); economically disadvantaged definition (Act 136); school bus identifying marks (Act 230); the use of corporal punishment for students with disabilities (Act 26); specified charter school data sharing (Act 91); consideration of charter school performance for the 2017-2018 school year only.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Charter schools will experience costs and benefits to the extent these proposed changes affect student enrollment, which impacts their level of MFP funding. The proposed change to the renewal process could result in a higher school performance score, which ultimately serves to determine continued approval to operate the school.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1709#032

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation
and Assessment of School Personnel
(LAC 28:CXLVII.301 and 303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*: §301, Overview of Personnel Evaluation; and §303, Measures of Growth in Student Learning—Value-Added Model. The proposed revisions align policy with recently enacted state legislation.

Title 28

EDUCATION

**Part CXLVII. Bulletin 130—Regulations for the
Evaluation and Assessment of School Personnel**

Chapter 3. Personnel Evaluation

§301. Overview of Personnel Evaluation

A. Personnel evaluation for teachers and administrators shall be composed of two parts. Fifty percent of the evaluation shall be composed of applicable measure(s) of growth in student learning. The remaining 50 percent shall be based upon a qualitative assessment of teacher or administrator performance.

1. For teachers, data derived from the value-added assessment model shall be a factor in measuring growth in student learning for grade levels and subjects for which value-added data are available. If value-added data are available, growth in student learning (50 percent of the total score) shall be comprised of 35 percent value-added data and 15 percent student learning targets. If value-added data are not available, growth in student learning shall be comprised of 50 percent student learning targets. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth and goal setting for principals is subject to §305.D of this bulletin.

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1266 (July 2015), LR 43:

§303. Measures of Growth in Student Learning—Value-Added Model

A. - D.5. ...

6. economically disadvantaged status;

D.7. - F. ...

G. During the transition to English I, English II, Algebra I, and Geometry assessments having five levels of performance, teacher value-added data will not be available in 2017-2018. During this time, the department shall provide transitional student growth data that may be used as a measure of student growth, at the evaluator's discretion. LEAs may define local rules pertaining to the use of such data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:3123 (December 2012), LR 39:1273 (May 2013), LR 40:761 (April 2014), LR 41:1267 (July 2015), LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., October 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 130—Regulations for the
Evaluation and Assessment of School Personnel**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions could impact expenditures of local school districts to the extent there are significant changes in teacher performance ratings. Teachers rated “ineffective” are not eligible for salary increases for a year following the evaluation. Any impact will be determined by the number of teachers who otherwise would receive a different rating, and the amount of any salary increases or performance bonuses that may be awarded.

Per Act 504 of the 2016 Regular Session, the proposed revisions require that when value-added data are available, growth in student learning (50 percent of the total score) shall be comprised of 35 percent value-added data and 15 percent student learning targets. Further, repeal regulations allow an administrator to adjust the value-added rating of a teacher by plus or minus one rating level, based on the teacher’s student learning target performance.

Additionally, per Act 136 of 2017, the proposed revisions define “economically disadvantaged” (previously “at-risk”) students for purposes of teacher evaluations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Teachers’ salary increases or performance bonuses will be impacted to the extent these changes affect the outcome of their evaluations. The extent of such impacts are indeterminable at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1709#020

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 134—Tuition Donation Program
(LAC 28:CLV.101, 103, 301, 311, 313, 501, 503,
505, 703, 705, 707, 901, 1101, 1301, and 1303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 134—Tuition Donation Program*: §101, Purpose, Scope, and Effect; §103, Definitions; §301, Establishment of a School Tuition Organization; §311, Scholarship and Tuition Payments; §313, Refund of Donations; §501, Donations; Qualifications; §503, Donations; Time; §505, Credits; §703, School Tuition Organization Advertising; §705, Annual Report; §707, Budgeting; §901, General Audits and Financial Reviews; §1101, Background Checks; §1301, Required Participation in the State Testing Program; and §1303, Annual Report on Program Implementation. The proposed revisions align policy with recently enacted state legislation.

Title 28 EDUCATION

Part CLV. Bulletin 134—Tuition Donation Program

Chapter 1. General Provisions

§101. Purpose, Scope, and Effect

A. The purpose of this policy Rule is to set forth the rules and regulations necessary to implement the provisions of R.S. 47:6301, which allows credits for donations a taxpayer makes to a school tuition organization which provides scholarships to qualified students that attend a qualified school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1024 (April 2013), amended LR 43:

§103. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever the words appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or
2. a different definition is prescribed for a particular provision.

Administrative Costs—all costs and expenses associated with the operation of a school tuition organization, including promotional costs and the costs associated with administering state testing, other than scholarship awards. Administrative costs shall not exceed 5 percent of any donation.

Donor—a taxpayer who is required to file a Louisiana income tax return, and who makes a donation to a school tuition organization.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1024 (April 2013), amended LR 41:41 (January 2015), LR 42:553 (April 2016), LR 43:

Chapter 3. School Tuition Organizations

§301. Establishment of a School Tuition Organization

A. - D.3. ...

E. The department shall bar a school tuition organization from participating in the tuition donation program if the school tuition organization fails to perform criminal background checks on all of its employees and board members according to the provisions of R.S. 15:587.1 or employs or allows a person to be a board member who has been convicted of or entered a plea of *nolo contendere* to a crime listed in R.S. 15:587.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1024 (April 2013), amended LR 43:

§311. Scholarship and Tuition Payments

A. - C. ...

D. The department shall verify that each student receiving a scholarship from a school tuition organization was not enrolled in a public school in Louisiana on October 1 or February 1 of the school year for which the student received the scholarship, pursuant to the definition of student membership established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1025 (April 2013), amended LR 40:499 (March 2014), LR 43:

§313. Refund of Donations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), repealed LR 43:

Chapter 5. Donations to School Tuition Organizations and Credits

§501. Donations; Qualifications

A. There shall be a credit allowed for donations made by a taxpayer during a taxable year to a school tuition organization which provides scholarships to qualified students to attend a qualified school.

B. To qualify for a credit pursuant to R.S. 47:6301, the donor must be a taxpayer who is required to file a Louisiana income tax return.

C. ...

D. The Department of Revenue shall provide a standardized format for the receipt to be issued by the LDE to a school tuition organization. The Department of Revenue shall require a taxpayer to provide a copy of the receipt when claiming the credit authorized by this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), amended LR 40:499 (March 2014), LR 43:

§503. Donations; Time

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), repealed LR 43:

§505. Credits

A. In order for a donation to qualify for the credit, the donation shall be used by the school tuition organization to provide scholarships for tuition and fees for students to attend a qualified school in accordance with the provisions of this Rule and R.S. 47:6301.

B. The amount of the credit to the donor shall be equal to the actual amount of the taxpayer's donation used by a school tuition organization to fund a scholarship to a qualified student, which shall not include administrative costs.

C. The credit shall be earned when the donation is made.

D. The department shall transmit an electronic file to the Department of Revenue verifying that the LDE has issued taxpayer receipts to the taxpayer or to the school tuition organization, on behalf of the taxpayer, when the taxpayer has authorized the school tuition organization to collect the receipt on the taxpayer's behalf. The electronic file should include the following information for each receipt:

1. the date the LDE issued the receipt;
2. the name and social security number or Louisiana taxpayer identification number of each taxpayer; and
3. the amount of each taxpayer's donation that funded student scholarships for the previous school year.

E. The taxpayer shall complete a credit form, provided by the Department of Revenue, and submits both that form and the LDE-issued receipt to the Department of Revenue.

F. The taxpayer may use the credit in addition to any federal tax credit or deduction earned for the same donation. However, a taxpayer shall not receive any other state tax credit, exemption, exclusion, deduction or any other tax benefit for which the taxpayer has received a tax credit under the tuition donation program.

G. In the event that the tax credit earned through the tuition donation program exceeds the total tax liability of the taxpayer in the taxable year, the amount of the credit not used as an offset against such tax liability in the taxable year may be carried forward as a credit against subsequent income tax liabilities for a period not to exceed three taxable years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), amended LR 40:499 (March 2014), LR 43:

Chapter 7. School Tuition Organization Fiscal and Advertising Responsibilities

§703. School Tuition Organization Advertising

A. - E. ...

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1026 (April 2013), amended LR 40:499 (March 2014), LR 43:

§705. Annual Report

A. - A.10. ...

B. The department shall bar a school tuition organization that fails to report all information required in this Section by the first day of January, unless granted an extension of no more than 30 days by department for good cause, from participation in the tuition donation program for the current school year and the upcoming school year.

C. Each school tuition organization and the LDE shall redact all names of taxpayers and social security numbers or tax identification numbers before publicly releasing any annual report.

D. The department shall provide the Department of Revenue with copies of all such reports by February 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1027 (April 2013), amended LR 40:499 (March 2014), LR 43:

§707. Budgeting

A. ...

B. Each school tuition organization shall pay out or reserve for scholarships at least 75 percent of all funds from donations.

1. Only those funds that are designated for a specific student who is awarded a scholarship for the next school year or for multiple school years shall be considered to be "reserved."

2. On July 1 of each year, the school tuition organization shall make an accounting of all funds received as donations during the previous calendar year and retained from the year before the previous calendar year.

3. Any donated funds retained by the school tuition organization as of July 1 that exceed 25 percent of all funds available from donations from all prior calendar years shall be remitted to the department for deposit into the state general fund.

C. Each school tuition organization shall provide for the administration of the state tests associated with the school and district accountability system to those participating students to whom it has awarded scholarships in grades that require testing under the state's accountability and testing laws for public schools. Such costs shall not be included as part of any scholarship award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1027 (April 2013), amended LR 43:

Chapter 9. Review of School Tuition Organizations

§901. General Audits and Financial Reviews

A. The department shall annually conduct an audit of a school tuition organization. The department shall bar a school tuition organization from participating in the program authorized under this Section if the school tuition organization intentionally or substantially fails to comply with the requirements of this Bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1027 (April 2013), amended LR 41:41 (January 2015), LR 43:

Chapter 11. Qualified Schools

§1101. Background Checks

A. Each qualified school must conduct criminal background checks on its employees in compliance with R.S. 17:15 and exclude from employment any person not permitted by state law to work in a nonpublic school. The LDE shall bar an otherwise qualified school from participating in the program authorized under this Rule if the

otherwise qualified school fails to comply with the requirements of R.S. 17:15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1027 (April 2013), amended LR 43:

Chapter 13. Testing

§1301. Required Participation in the State Testing Program

A. - D.2. ...

E. The LEA shall not test any students enrolled in participating nonpublic schools unless there is a written agreement between the LEA and the participating nonpublic school to this effect. No LEA shall ever be required to test students attending the participating nonpublic schools under the Tuition Donation Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1028 (April 2013), amended LR 43:

§1303. Annual Report on Program Implementation

A. - B. ...

C. The department shall publically report state test scores for each student receiving a scholarship the entirety of the students participating in the tuition donation program in accordance with the requirements of the federal FERPA statute (20 U.S.C. 1232g) and regulations (34 CFR 99.1 et seq.). However, the LDE shall not include the name or any other identifying information for individual students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1029 (April 2013), amended LR 41:41 (January 2015), LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable

provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., October 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand-delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 134—Tuition Donation Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an indeterminable impact to student enrollment in public schools and the state Minimum Foundation Program funding formula (MFP) to the extent student participation in Student Tuition Organizations (STO) is

impacted by the conversion from a rebate to a nonrefundable tax credit. While some scholarship awards will be less than what would have been paid for that student through the MFP, it is unknown whether all students in the STO would previously enroll in a public school and what the MFP allocation would have been for those students. Ultimately any net increase or decrease will depend upon the tuition of individual students at the STO school the student may attend and the actual per pupil amount that would otherwise have been provided through the MFP.

Prior to Act 377 of 2017, state law authorized a rebate for donations made to a school tuition organization (STO) by a taxpayer who files a Louisiana income tax return. The donation must be used by the STO to provide scholarships to qualified students to attend a qualified school. The amount of the rebate was equal to the actual amount of the taxpayer's donation used by an STO to fund a scholarship, exclusive of administrative costs. Act 377 converted the rebate to a nonrefundable tax credit; prohibits the taxpayer from receiving any other state tax credit, exemption, exclusion, deduction for the donation; and limits the credit to taxpayers required to file a state tax return.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an indeterminable increase in state general fund from state tax collections (most likely personal and corporate income) due to a reduction in the amount of taxpayer donations currently being rebated. \

To the extent scholarship opportunities under the STO program are impacted and students move into and out of public school, school districts and other public charter schools will experience changes in MFP funding levels.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1709#021

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations (LAC 28:CLXI.103, 505, 507, 509, 701, 703, 705, 707, 713, 1105, 1301, 1307, 1509, 1515, 1701, 1703, 1705, 1709, 1711, 1713, 1715, 1717, 1721, 1723, 1725, 1801, 1803, 1805, 1807, 1809, 1811, 1813, 1815, 1817, 1819, 1821, 1903, 1907, 1909, 1919, and 2103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*: §103, Definitions; §505, Prohibitions; §507, Criminal Background Checks for Owners; §509, State Central Registry Disclosure Forms for Owners; §701, Initial Application Process; §703, Initial Inspection Process; §705, Access; §707, Fees; §713, Renewal and Other Inspection Procedures; §1105, Identified Violations and Fines; §1301, Reasons for Denial, Revocation

or Refusal to Renew; §1307, Appeal of Denial, Revocation or Refusal to Renew; §1509, Policies; §1515, Child Records and Cumulative Files; §1701, Prohibitions; §1703, Criminal Background Checks for Volunteers, Staff, Visitors and Independent Contractors; §1705, State Central Registry Disclosure Forms for Volunteers and Staff; §1709, Director Qualifications; §1711, Child-to-Staff Minimum Ratio; §1713, Supervision; §1715, Staff Records and Personnel Files; §1717, Records for Independent Contractors and Student Trainees; §1721, Continuing Education; §1723, CPR and First Aid Certifications; §1725, Medication Management Training; §1801, Prohibition; §1803, Determination of Eligibility; §1805, Persons Ineligible for Child Care Purposes; §1807, CCCBC-Based Determinations of Eligibility for Child Care Purposes Required for Owners, Volunteers, Staff, Visitors and Contractors of Early Learning Centers; §1809, CCCBC-Based Determinations of Eligibility for Child Care Purposes Required for Persons Providing Services in Early Learning Centers; §1811, Requests for CCCBC-Based Determinations of Eligibility for Child Care Purposes from the department; §1813, Transitional Provisions for Newly Required CCCBC-Based Determinations of Eligibility; §1815, Fees for CCCBC-Based Determinations of Eligibility for Child Care Purposes; §1817, Reporting Requirements; §1819, Termination of Employment and Removal from Center and Premises; §1821, Appeal of Accuracy or Completeness of CCCBC Results; §1903, Physical Environment; §1907, Furnishings and Equipment; §1909, Safe Sleep Practices; §1919, Food Service and Nutrition; and §2103, Daily Transportation (Contract or Center Provided).The proposed revisions to update policy to align with recently enacted state and federal legislation.

**Title 28
EDUCATION**

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Chapter 1. General Provisions

§103. Definitions

* * *

Bus Monitors—staff with specific transportation-related responsibilities that include assisting the driver in ensuring the safety of children while they ride in, board, or exit a vehicle, and during transportation emergencies.

* * *

CCCBC—child care criminal background check.

* * *

Child Care Criminal Background Check (CCCBC)—information received by the department upon request for information pursuant to requirements set forth in R.S. 17:407.42, 45 C.F.R. 98.43(b), and Chapter 18 of this Bulletin.

* * *

Child Care Purposes—for early learning centers, child care purposes are owning, operating or participating in the governance of an early learning center; being hired by an early learning center as a volunteer, staff member, employee or independent contractor of any kind; or being present at an early learning center when not exempt from the requirement for a CCCBC-based determination of eligibility for child care purposes.

* * *

Criminal Background Check (CBC)—a fingerprint-based personal Louisiana criminal history information record for owners, applicants for employment, staff, volunteers, visitors, and independent contractors who perform services at an early learning centers when children are present, obtained from the Louisiana Bureau of Criminal Identification and Information pursuant to R.S. 17:407.42, prior to March 1, 2018. A CBC is satisfactory if it shows no arrests for any crime included in R.S. 15:587.1(C), or if an arrest is shown on the CBC for any excludable offense, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or nolo contendere shall be deemed to be a conviction. Valid CBC affidavits and CBC annual letters that were issued prior to March 1, 2018 for the 2017-2018 school year shall be accepted as documentation of a satisfactory CBC.

Determination of Eligibility—determination by the department of a person's eligibility for child care purposes based on the results of a child care criminal background check (CCCBC).

DHH—Department of Health and Hospitals.

Monitor—see *bus monitors* or *monitor of a provisionally employed staff member*.

Monitor of a Provisionally Employed Staff Member—an adult staff member for whom a center has a CCCBC-based determination of eligibility for child care purposes (or prior to October 1, 2018, a satisfactory CBC), who is designated by the center to monitor a specific person or persons who are provisionally employed staff members at the center.

Provisionally Employed Staff Member—a person for whom the center has requested a CCCBC-based determination of eligibility for child care purposes, and for whom the department has received a satisfactory fingerprint-based Louisiana or federal criminal history information record, who is temporarily employed and monitored by the center pending the department's receipt of the other CCCBC results and determination of the person's eligibility for child care purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:2103 (October 2015), LR 43:638 (April 2017), LR 43:

Chapter 5. Ownership of Early Learning Centers

§505. Prohibitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:621 (April 2015), effective July 1, 2015, repealed LR 43:

§507. Criminal Background Checks for Owners

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:621 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015), repealed LR 43:

§509. State Central Registry Disclosure Forms for Owners

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:622 (April 2015), effective July 1, 2015, repealed LR 43:

Chapter 7. Licensing Process and Procedures

§701. Initial Application Process

A. - D.2.c. ...

E. Initial Licensure. A license shall be issued on a completed initial application when the following items have been met and written verification has been received by the Licensing Division:

1. - 6. ...

7. licensure inspection verifying compliance with all minimum standards; and

8. CCCBC-based determination of eligibility for child care purposes from the department for all owners, operators, and staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:622 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015), LR 43:

§703. Initial Inspection Process

A. - A.4.c. ...

d. Office of Early Childhood approval, if type III center; and

e. documentation of a CCCBC-based determination of eligibility for child care purposes from the department.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 43:

§705. Access

A. An early learning center shall allow the Licensing Division staff access to the center, the children, all files, records, and recordings, upon request at any time during any hours of operation or any time a child is present.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.43.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015, amended LR 43:

§707. Fees

All fees shall be paid to the Louisiana Department of Education through its electronic payment system and are nonrefundable.

1. - 2.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 43:

§713. Renewal and Other Inspection Procedures

A. - C.2. ...

D. Licensing Deficiency Review

1. Managerial Review

a. A center may submit a written request to the Licensing Division, on a form provided by the Licensing Division, for a managerial review of the accuracy of a cited deficiency or the accuracy of a statement within a cited deficiency. The written request for a managerial review must be received by the Licensing Division within 10 calendar days of the center's receipt of the cited deficiency.

b. Management will review and respond in writing to the written request within 10 calendar days of receipt of the request.

2. Second Request for Review

a. If the cited deficiency is upheld in the managerial review, the provider may submit a written request for a second review of the deficiency within 10 calendar days of receipt of the written response the managerial review.

b. All information to be considered in the second review must be submitted in writing.

c. A licensing review panel will review the cited deficiency and provide a written response to the center within 10 calendar days of receipt of second request for review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 43:

Chapter 11. Operating Violations and Incidents; Fines; Appeals

§1105. Identified Violations and Fines

A. For violations related to the following licensing standards, when such violation does not pose an imminent threat to the health, safety, rights, or welfare of a child, the Licensing Division may issue a written warning in lieu of revoking or refusing to renew the license:

1. ...

2. CCCBC-based determination of eligibility for child care purposes (§1807);

3. child to staff ratios (§1711);

4. motor vehicle passenger checks (§2107); and

5. failure to report critical incidents (§1103).

B - C.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 43:

Chapter 13. Denial, Revocation or Non-Renewal of License

§1301. Reasons for Denial, Revocation or Refusal to Renew

A. The following is an illustrative, but not exclusive, list of reasons that an application for licensure may be denied or a license may be revoked or renewal refused:

1. - 14. ...

15. any act of fraud, such as the submission of false or altered documents or information;

16. the center is closed and there are no plans for immediate reopening and no means of verifying compliance with licensing laws, regulations and minimum standards;

17. the center knowingly continues to employ or allow to be present at the center or on the center premises, a person who is ineligible for child care purposes; and

18. the owner of a center is ineligible for child care purposes and does not immediately leave the center and center premises, or returns to the center or center premises at any time when children are present, or fails to divest ownership of the center or close the center within 30 calendar days of the owner's knowledge of his/her ineligibility for child care purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 43:

§1307. Appeal of Denial, Revocation or Refusal to Renew

A. - B. ...

C. A center may continue to operate during the appeals unless the Licensing Division determines that the health, safety or welfare of children in care imperatively requires immediate closure of the center and incorporates that finding in its notice of revocation.

1. If a center with a revoked license is continuing to operate during its appeals process, and the Licensing Division determines that the health, safety, or welfare of the children in care is at risk due to continuing violations of licensing standards and minimum requirements or the occurrence of a critical incident, the Licensing Division may require immediate closure of the center by providing written notice of required immediate closure that includes notice of the continuing violations of licensing standards and minimum requirements or the occurrence of a critical incident. There shall be no appeal of the required immediate closure, but the appeal of the revocation of the license shall continue. If the decision to revoke the center's license is not upheld in the pending appeal, the center may reopen upon receipt of notice of such a decision.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 42:554 (April 2016), LR 43:

Chapter 15. Minimum General Requirements and Standards

§1509. Policies

A. An early learning center shall establish in writing and implement the following policies and minimum provisions of such policies:

1. - 11.f.ii. ...

12. monitoring policy for provisionally employed staff members:

a. each center shall develop and implement a written policy describing the monitoring procedures that

shall be used at the center when staff members are employed on a provisional basis due to an incomplete CCCBC-based determination of eligibility for child care purposes;

b. the monitoring policy shall include all requirements for the monitoring of provisionally employed staff members set forth in §1811.D;

c. the center shall post a copy of the policy in the center in a place visible to all parents and staff;

d. the center shall provide copies of the written policy to each parent/legal custodian of enrolled children, center staff member and provisionally employed staff member, and the center shall obtain signed documentation from each that a copy of the policy has been received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015, amended LR 43:

§1515. Child Records and Cumulative Files

A. - D. ...

E. An early learning center shall provide a written copy of all health-related policies established by the center, including policies regarding accidents, allergic reactions, fever, illness, immunizations, infection, and injuries, to the parent or guardian of each child attending or enrolled the early learning center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 43:

Chapter 17. Minimum Staffing Requirements and Standards

§1701. Prohibitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:631 (April 2015), effective July 1, 2015, repealed LR 43:

§1703. Criminal Background Checks for Volunteers, Staff, Visitors and Independent Contractors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:631 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), repealed LR 43:

§1705. State Central Registry Disclosure Forms for Volunteers and Staff

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:632 (April 2015), effective July 1, 2015, repealed LR 43:

§1709. Director Qualifications

A.

B. The director/director designee shall have documentation of at least one of the following upon date of hire as director or director designee:

1. - 5. ...

6. three years of experience as a director or staff in a licensed early learning center, or comparable setting, subject to approval by the Licensing Division; plus 6 credit hours in child care, child development or early childhood education, or 90 clock hours of training in child care, child care development or early childhood approved by the licensing division. Up to 3 credit hours or 45 clock hours may be in management/administration education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 43:

§1711. Child-to-Staff Minimum Ratio

A. - G.4. ...

H. Rest Time—Minimum Child to Staff Ratios

1. Sufficient staffing needed to satisfy child to staff ratios shall be present on the premises during rest time and available to assist as needed.

2. Children ages one and older may be grouped together at rest time with one staff member in each room supervising the resting children.

I. - N.2. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 43:638 (April 2017), LR 43:

§1713. Supervision

A. - I. ...

J. Rest Time

1. If two rooms share a common doorway, one staff member may supervise the resting children in both rooms.

2. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff circulating among the resting children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:634 (April 2015), effective July 1, 2015, amended LR 41:2107 (October 2015), LR 42:554 (April 2016), LR 43:

§1715. Staff Records and Personnel Files

A. Staff Members. Personnel files for each staff member shall be maintained at the center and shall include the following:

1. - 2. ...

3. upon termination or resignation of employment, the last date of employment and reason for leaving; and

4. documentation of CCCBC-based determination of eligibility for child care purposes from the department.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 43:

§1717. Records for Independent Contractors and Student Trainees

A. Independent Contractors. The following information shall be maintained for all independent contractors, including but not limited to therapeutic professionals,

extracurricular personnel, contracted transportation drivers, Department of Education, Office of Early Childhood staff and local school district staff:

1. - 2. ...

3. documentation of a CCCBC-based determination of eligibility for child care purposes from the department or documentation of the adult staff member not otherwise counted in child to staff ratios that accompanied the contractor at all times while the contractor was at the center when children were present, to include the date, contractor arrival and departure time, language stating that the contractor was accompanied by the staff member at all times while at the center when children were present, and the signature of both the contractor and the accompanying staff member.

B. Student Trainees. The following information shall be maintained for all student trainees:

1. ...

2. a list of duties performed while present at the center; and

3. documentation of a CCCBC-based determination of eligibility for child care purposes from the department.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1), R.S. 17:407.40, and R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 43:

§1721. Continuing Education

A. Early learning centers shall provide opportunities for continuing education of staff members who are left alone with children, or who have supervisory or disciplinary authority over children.

1. Staff members of early learning centers, excluding foster grandparents, shall obtain a minimum of 12 clock hours of continuing education per center anniversary year.

B. - C. ...

D. Continuing education hours shall be in the areas of:

1. - 9. ...

10. first aid;

11. management/administrative education and;

12. college credit hours in child care, child development, and/or early childhood.

E. - G. ...

H. Copies of certificates of completion or transcripts shall be maintained at the center and available for inspection by the licensing division upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:555 (April 2016), LR 43:

§1723. CPR and First Aid Certifications

A. ...

B. Adult CPR. Fifty percent of staff members on the premises of a center and accessible to children, or at least four staff on the premises and accessible to children, whichever is less, shall have current certification in adult CPR.

C. Pediatric First Aid. Fifty percent of staff members on the premises of a center and accessible to children, or at least four staff on the premises and accessible to children,

whichever is less, shall have current certification in pediatric first aid.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 43:

§1725. Medication Management Training

A. - D. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 43:

Chapter 18. Child Care Criminal Background Checks (CCCBC)

§1801. Prohibition

A. No person who has been found by the department to be ineligible for child care purposes shall own, operate or participate in the governance of an early learning center, or shall be employed by an early learning center as a volunteer, staff member, employee or independent contractor of any kind, or shall be employed by an entity identified in §1809 as an employee or contract employee that provides services in early learning centers when children are present.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§1803. Determination of Eligibility

A. The department shall determine a person's eligibility for child care purposes based upon the results of the person's CCCBC.

B. Components of a CCCBC. A CCCBC shall include:

1. a request for a fingerprint-based search of the Louisiana criminal history information record;

2. a request for a fingerprint-based search of the federal criminal history information record;

3. a request to DCFS to search the Louisiana state central registry of child abuse and neglect;

4. a search of the Louisiana sex offender and child predator registry;

5. a search of the national sex offender registry, as required by 45 CFR 98.43(b)(2); and

6. a request for a search of the name-based state criminal history information record, state sex offender registry, and state registry of child abuse and neglect in each state where the person resided in the past five years, as required by 45 CFR 98.43.43(b)(3).

C. The department shall determine that a person is either eligible or ineligible for child care purposes.

D. The department shall provide written notice of a CCCBC-based determination of eligibility for child care purposes in the following manner:

1. to the requesting early learning center or entity identified in §1809, the determination that the person is eligible or ineligible for child care purposes only, without revealing any disqualifying crime or other related information regarding the person; and

2. to the person for whom the early learning center or entity identified in §1809 requested the determination, the

determination that the person is eligible or ineligible for child care purposes; and if the person is ineligible for child care purposes, information related to each disqualifying crime or other related information regarding the person, and information about the opportunity to appeal the accuracy or completeness of the CCCBC results received by the department and used in the determination of eligibility.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§1805. Persons Ineligible for Child Care Purposes

A. A person shall be ineligible for child care purposes if the person:

1. refuses to consent to a CCCBC-based determination of eligibility for child care purposes;

2. knowingly makes a materially false or incomplete statement in connection with the CCCBC-based determination of eligibility for child care purposes;

3. has been convicted of or plead guilty or nolo contendere to any of the crimes listed in R.S. 15:587.1(C), or those of a jurisdiction other than Louisiana which would constitute a crime under the provisions cited in R.S. 15:587.1(C); or

4. is registered or required to be registered on the Louisiana sex offender and child predator registry, any other state sex offender registry, or the national sex offender registry.

B. A person shall also be ineligible for child care purposes if upon the department's written request to DCFS after March 1, 2018, for information as to whether a person's name is on the state central registry within DCFS, the department receives written notice from DCFS that the person's name is recorded on the state central registry as a perpetrator for a justified finding of child abuse or neglect.

1. Until the required written notice is received from DCFS indicating that a person's name is recorded on the state central registry as a perpetrator for a justified finding of child abuse or neglect, the department shall not withhold a determination that a person is eligible for child care purposes, unless the results of some other component of the CCCBC require a determination of ineligibility.

C. A person may also be ineligible for child care purposes if upon the department's request for information from another state, the department receives from the state written notice that the person's name is recorded on that state's registry or repository of child abuse and neglect as having a finding of child abuse or neglect or written notice that the person is ineligible for child care purposes.

D. In addition, neither an owner, director, or director designee shall have been convicted of, or pled guilty or nolo contendere to any of the following crimes of fraud: 18 U.S.C. 287, 18 U.S.C. 1341, R.S. 14:67.11, R.S. 14:68.2, R.S. 14:70, R.S. 14:70.1, R.S. 14:70.4, R.S. 14:70.5, R.S. 14:70.7, R.S. 14:70.8, R.S. 14:71, R.S. 14:71.1, R.S. 14:71.3, R.S. 14:72, R.S. 14:72.1, R.S. 14:72.1.1, R.S. 14:72.4, R.S. 14:72.5, R.S. 14:73.5, and R.S. 14:133.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§1807. CCCBC-Based Determinations of Eligibility for Child Care Purposes Required for Owners, Volunteers, Staff, Visitors and Contractors of Early Learning Centers

A. Owners. An early learning center shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for each owner prior to submitting an initial application for licensure and shall provide documentation of said determination for each owner with an initial application for licensure. The center shall have documentation of said determinations available at all times for inspection upon request by the Licensing Division.

1. New Members or Owners. An early learning center shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for new members or owners that are to be added to a partnership, church, corporation, limited liability company or governmental entity, even if such change does not constitute a change in ownership for licensing purposes, in the same manner as for original owners and members.

2. Affidavit. If a person owns less than a 25 percent share in the ownership or management of an early learning center and does not meet one or more of the criteria listed in §503.A.5.b, said person may submit a signed, notarized affidavit to the center in lieu of providing a CCCBC-based determination of eligibility. The affidavit shall certify that the person has less than a 25 percent share in the ownership or management of the center and does not meet any of the criteria listed in §503.A.5.b.

B. Volunteers and Staff. An early learning center shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for each volunteer, staff member, or employee of any kind, and shall have documentation of said determination available at all times for inspection upon request by the Licensing Division.

C. Visitors and Contractors. An early learning center shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for each visitor or independent contractor of any kind, and shall have documentation of said determination available at all times for inspection upon request by the licensing division, unless the visitor or independent contractor, other than *therapeutic professionals* as defined in §103, will be accompanied at all times while at the center when children are present, by an adult staff member who is not being counted in child-to-staff ratios. The center shall have documentation of said determination of eligibility, or documentation of the accompanying staff member, available at all times for inspection upon request by the Licensing Division.

1. Documentation of the adult staff member not otherwise counted in child to staff ratios who accompanied a visitor or independent contractor shall include the date, arrival and departure time of the visitor or contractor, language stating that the visitor or contractor was accompanied by the staff member at all times while at the center when children were present, and the signature of both the contractor and the accompanying staff member.

D. Parents or Legal Custodians, Grandparents, Siblings

1. Parents or legal custodians of an enrolled child, or other persons authorized in writing by the parents to pick up

their child, who are only bringing a child to or picking up a child from an early learning center are not required to have a CCCBC-based determination of eligibility for child care purposes.

2. Parents or legal custodians, grandparents, siblings and other relatives of an enrolled child who are attending a function at the center where center staff will be present and supervising all children are not required to have a CCCBC-based determination of eligibility for child care purposes.

E. Court-Appointed Special Advocate. A court-appointed special advocate (CASA volunteer) shall submit to an early learning center his or her CASA volunteer order of assignment that is signed by a juvenile court judge and the CASA volunteer, and it shall be accepted by the center as documentation of eligibility for child care purposes for the CASA volunteer pursuant to *Louisiana Children's Code*, art. 424.1(D).

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§1809. CCCBC-Based Determinations of Eligibility for Child Care Purposes Required for Persons Providing Services in Early Learning Centers

A. The following entities shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for any of their employees or contract employees that provide services in early learning centers when children are present:

1. local educational agencies that provide services to children in early learning centers, for their school and contract employees who provide these services in early learning centers;

2. resource and referral agencies that are approved by BESE and under contract with the department to provide services to early learning center employees, for their employees and contract employees that provide these services in early learning centers;

3. entities approved by BESE and under contract with the department to provide state mental health consultations in early learning centers, for their employees and contract employees providing these services in early learning centers;

4. teacher preparation programs approved by BESE, for their employees, contract employees and enrolled students that are required to be present in early learning centers;

5. accredited Louisiana universities, for therapeutic program faculty and enrolled students that are required to be in early learning centers;

6. lead agencies approved by BESE and under contract with the department to provide services in early learning centers, for their employees and contract employees providing these services in early learning centers;

7. Louisiana Department of Health, which provides IDEA, part C services for children in early learning centers, for its employees and contract employees providing these services in early learning centers;

8. third-party contractors approved by BESE and under contract with the department to provide services in early learning centers, for their employees and contract employees providing these services in early learning centers;

9. entities approved by the department that provide services in early learning centers, for owners and employees of the entity providing services in early learning centers; and

10. the department, which provides services in early learning centers, for its employees and contract employees providing services in early learning centers.

B. Each entity shall have documentation for each required person in Subsection A that allows an early learning center to verify the person's CCCBC-based determination of eligibility for child care purposes.

C. Persons approved by the department who provide services in, or require access to, early learning centers shall obtain a CCCBC-based determination of eligibility for child care purposes from the department.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§1811. Requests for CCCBC-Based Determinations of Eligibility for Child Care Purposes from the Department

A. An early learning center or an entity identified in §1809 shall request and obtain from the department a new CCCBC-based determination of eligibility for child care purposes for each required person:

1. prior to the person being present or performing services at the center when children are present; and

2. not less than once during a five-year period.

B. An early learning center or an entity identified in §1809 shall not be required to request and obtain from the department a new CCCBC-based determination of eligibility for child care purposes for a required person, and instead shall be able to request and obtain from the department the person's CCCBC-based determination of eligibility provided to another in-state child care provider or entity identified in §1809, if:

1. a child care provider within the state or an entity requested and obtained a CCCBC-based determination of eligibility for child care purposes from the department for the person within the past five years, while the person was seeking employment or employed by a in-state child care provider or seeking to provide or providing services at an early learning center in Louisiana for an entity;

2. the department provided to the initial requesting child care provider or entity a CCCBC-based determination indicating the person was eligible for child care purposes; and

3. the person is still employed by a child care provider within the state, or is still providing services in an early learning center within the state for an entity, or has been separated from a child care provider within the state or an entity for less than 180 consecutive days.

C. Electronic fingerprints shall be used in parishes where they are available.

D. Provisional Employment for Staff Members of Early Learning Centers

1. A center may provisionally employ as a staff member, a person for whom it has requested a CCCBC-based determination of eligibility for child care purposes, and for whom the department has received a satisfactory fingerprint-based Louisiana or federal criminal history

information record, pending the department's receipt of the other CCCBC results and determination of the person's eligibility for child care purposes.

2. A provisionally-employed staff member may be counted in child to staff ratios, but must be monitored at all times in accordance with the following.

a. A monitor of a provisionally-employed staff member must be an adult staff member for whom the center has a CCCBC-based determination of eligibility for child care purposes, (or prior to October 1, 2018, a satisfactory CBC), who is designated by the center to monitor a specific provisionally-employed staff member.

b. The center must designate a monitor for each provisionally-employed staff member present at the center.

c. The monitor shall be physically present at the center at all times when the provisionally-employed staff member is present at the center.

d. Monitors must remain within close enough physical proximity of their designated provisionally-employed staff members to be able intervene at any time if intervention is needed.

e. A monitor shall perform at least one visual observation of each designated provisionally-employed staff member every 30 minutes.

f. The center may designate one monitor for up to a maximum of five provisionally-employed staff members at any given time.

g. At least one monitor must be physically present at all times in any room during naptimes if a provisionally-employed staff member is present.

3. The center shall have a log or other written documentation of the monitoring of provisionally-employed staff members that identifies each provisionally-employed staff member, the designated monitor for each, and the times of the visual observations.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§1813. Transitional Provisions for Newly Required CCCBC-Based Determinations of Eligibility

A. CBCs and CCCBCs.

1. Prior to March 1, 2018, an early learning center was required to obtain a criminal background check (CBC) from the Louisiana bureau for all owners, volunteers, staff members, employees, and independent contractors of any kind, and entities identified in §1809 were required to obtain either a right to review or a CBC for any of their employees and contract employees that provided services in early learning centers when children were present.

2. Effective March 1, 2018, an early learning center must obtain a child care criminal background check (CCCBC)-based determination of eligibility for child care purposes from the department for all owners, volunteers, staff members, employees, and independent contractors of any kind, and an entity identified in §1809 must obtain a CCCBC-based determination of eligibility for child care purposes from the department for any of its employees and contract employees that provide services in early learning centers when children are present.

B. New Hires and Others for whom a Center or an Entity Identified in §1809 Does Not Have an Existing Satisfactory CBC on March 1, 2018

1. An early learning center shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for each owner, operator, volunteer, staff member, employee, visitor and independent contractor, and applicants for such positions, for whom the center does not have a satisfactory criminal background check on March 1, 2018, prior to the person being present or performing services in the center when children are present.

2. An entity identified in §1809 shall obtain a new CCCBC-based determination of eligibility for child care purposes from the department for each employee and contract employee who provides services in early learning centers when children are present for whom the entity does not have a satisfactory CBC on March 1, 2018, prior to the person being present or performing services at an early learning center when children are present

C. Existing Owners, Staff and Others for whom an Early Learning Center Has an Existing Satisfactory CBC on March 1, 2018

1. An early learning center that has an existing satisfactory CBC on March 1, 2018, for persons who are continuing to provide services at the center, shall be required to request a new CCCBC-based determination of eligibility for child care purposes from the department for such persons by submitting a request to the department and having the person for whom it is requested submit fingerprints to the Louisiana bureau within the following time periods and categories:

a. between April 1 and May 31, 2018 for all owners, operators, directors, director designees and staff in charge of any early learning center;

b. between May 1 and June 30, 2018 for any volunteers and staff members employed at the center for five or more years;

c. between June 1 and July 31, 2018 for any volunteers and staff members employed at the center between two and five years, and all visitors and independent contractors, including those independent contractors with CBC affidavits and CBC annual letters issued prior to March 1, 2018 for the 2017-2018 school year;

d. between July 1 and August 31, 2018 for any volunteers and staff members employed at the center for two years or less.

2. A center's existing, satisfactory CBC on March 1, 2018, for a person who is continuing to provide services to the center, shall remain valid until the center receives the new CCCBC-based determination of eligibility for child care purposes for the person or until October 1, 2018, whichever is earlier, provided the center has timely submitted a request to the department for a new determination of eligibility and the person for whom it was requested has timely submitted his fingerprints to the Louisiana bureau.

D. Existing Employees and Contract Employees for whom an Entity Identified in §1809 has an Existing Satisfactory CBC on March 1, 2018

1. An entity identified in §1809 that has an existing satisfactory CBC on March 1, 2018 for persons who are continuing to provide services in early learning centers when children are present, shall be required to request new CCCBC-based determination of eligibility for child care purposes from the department for such persons by submitting a request to the department and having the person

for whom it is requested submit fingerprints to the Louisiana bureau between June 1, 2018 and July 31, 2018.

2. An entity's existing, satisfactory CBC on March 1, 2018, for a person who is continuing to provide services in early learning centers when children are present, shall remain valid until the entity receives the new CCCBC-based determination of eligibility for child care purposes for the person or until October 1, 2018, whichever is earlier, provided the entity has timely submitted a request to the department for a determination of eligibility and the person for whom it was requested has timely submitted his fingerprints to the Louisiana bureau.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§1815. Fees for CCCBC-Based Determinations of Eligibility for Child Care Purposes

A. All fees required to be paid to the Louisiana Department of Education shall be paid through its electronic payment system and are nonrefundable.

B. The department shall charge and collect a \$15 processing fee when it receives a request for a CCCBC-based determination of eligibility for child care purposes.

C. The department may also collect on behalf of the respective agencies the processing fees charged by DCFS for a search of its state central registry of child abuse and neglect, the bureau of criminal identification and information for a state criminal history report, the Federal Bureau of Investigation for a federal criminal history information report, the national crime information center for a search of the national sex offender registry, and processing fees charged by other states, when it receives a request for a CCCBC-based determination of eligibility for child care purposes.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§1817. Reporting Requirements

A. An early learning center or an entity identified in §1809 shall provide written notice to the licensing division within 24 hours of receipt of notice of, or upon becoming aware of, any of the occurrences listed in Subsection A for an owner, volunteer, staff member, employee or independent contractor of the early learning center, or an employee or contract employee of an entity identified in §1809 that provides services in early learning centers when children are present:

1. final conviction or a plea of nolo contendere to any of the crimes listed in R.S. 15:587.1(C), or those of a jurisdiction other than Louisiana which would constitute a crime under the provisions cited in R.S. 15:587.1(C);

2. becoming registered or required to register on the Louisiana sex offender and child predator registry, any other state sex offender registry, or the national sex offender registry; or

3. having name recorded on the Louisiana state central registry of child abuse and neglect or any other state registry of child abuse and neglect.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§1819. Termination of Employment and Removal from Center and Premises

A. Early Learning Center. Upon receipt of notice from the department that a person is ineligible for child care purposes, for an employee, volunteer, staff member or independent contractor of an early learning center, the center shall immediately remove the person from the center and center premises, and if the person is employed by the center, terminate the employment of the person.

B. Owner of Early Learning Centers. Upon receipt of notice from the department that he or she is ineligible for child care purposes, the owner of a center shall immediately leave the center and premises and shall not return to the center or premises at any time when children are present, and shall divest of ownership of the center, or close the center, within 30 calendar days of receipt of said notice.

C. Entity Identified §1809. Upon receipt of notice from the department that a person is ineligible for child care purposes, for an employee or contract employee of an entity identified in §1809 that provides services in early learning centers when children are present, the entity shall immediately notify any early learning center at which the employee or contract employee is providing services and shall prohibit the employee from providing future services on the entity's behalf in any early learning centers.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§1821. Appeal of Accuracy or Completeness of CCCBC Results

A. A person who has received a notice of ineligibility (NOI) for child care purposes from the department may appeal the accuracy or completeness of the CCCBC results received and used by the department to determine the person's ineligibility.

B. A person appealing the accuracy or completeness of the CCCBC results shall remain ineligible during the appeals process.

C. Request for Appeal of Accuracy or Completion of CCCBC Results

1. A request for such an appeal must be submitted in writing to the department, in a form provided by the department, within 45 calendar days of the date of issuance of the NOI.

2. To be sufficient, a request for appeal:

a. must contain written reasons that identify the specific information provided in the NOI that is believed to be inaccurate or incomplete; and

b. should include official information and/or documentation of the accurate and/or complete information, if available.

3. Upon receipt of a request for appeal, the department shall determine whether the request is sufficient or insufficient, and shall notify the requestor in writing accordingly.

D. Review of Appeal

1. If the request for an appeal is sufficient, and no further information or documentation is required, the department shall complete the review of the appeal

information and/or documentation and render a final written decision within 30 calendar days of receipt of the request for appeal.

2. If the request for an appeal is sufficient, but additional information and/or documentation is required to complete the appeal, the department shall notify the requestor in writing, and the requestor shall have 45 calendar days from the date of the request to provide the information and/or documentation.

a. If the required information and/or documentation is not received within the 45 days, the appeal may be denied for insufficiency of information and/or documentation.

b. If the required information and/or documentation is received within 45 days, the department shall complete the review of the appeal information and/or documentation and render a final written decision within 30 calendar days of receipt of the required information and/or documentation or receipt of required information and/or documentation requested by the department on behalf of the requestor.

E. Result of Appeal

1. If as a result of the appeal process, the requestor's CCCBC results are revised, and based on the revised CCCBC results, the department determines the requestor is eligible for child care purposes, the department shall notify the appeal requestor and the original requesting early learning center or entity identified in §1809 that the requestor is eligible for child care purposes by sending a notice of eligibility for child care purposes to both.

a. The notice of eligibility shall be valid from the date of issuance. The expiration date shall be five years from the date the original NOI was sent to the requestor and the requesting early learning center or entity identified in §1809.

2. If the appeals process does not result in a revision of the CCCBC results, or if it results in a revision to the CCCBC results, but based on the revised results, the requestor is still ineligible for child care purposes, the department shall notify the requestor in writing that the appeal is denied and that the determination of ineligibility remains in effect.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Chapter 19. Minimum Health, Safety, and Environment Requirements and Standards

§1903. Physical Environment

A. - A.2. ...

B. Physical Separation. An early learning center, except one located in a church or school, shall be physically separated from any other facility, dwelling, business, or enterprise, thereby preventing unauthorized access to children in care.

C. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 43:

§1907. Furnishings and Equipment

A. - A.2. ...

B. Eating Practices

1. - 2. ...

3. Any time feeding tables are used, children's feet must be able to rest comfortably on a footrest.

4. ...

C. - F.5. ...

G. All furniture shall be developmentally appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 43:

§1909. Safe Sleep Practices

A. - H. ...

I. A safety approved crib shall be available for each infant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, amended LR 43:

§1919. Food Service and Nutrition

A. - C. ...

D. A minimum of a breakfast or morning snack, lunch, and afternoon snack shall be served to children, and meals and snacks shall be served not more than three hours apart.

1. - 3. ...

4. Food shall be given to children on individual plates, cups, napkins, or paper towels, as appropriate, and individual utensils shall be provided, as appropriate.

5. ...

E. - I. ...

J. Bottled formula/breast milk for infants shall be labeled with the child's name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:640 (April 2015), effective July 1, 2015, amended LR 43:

Chapter 21. Minimum Transportation Requirements and Standards

§2103. Daily Transportation (Contract or Center Provided)

A. - C. ...

D. Vehicle Staff

1. - 2. ...

3. At least one staff member on the vehicle and accessible to children shall have current certification in infant and child CPR.

E. Master Transportation Log

1. ...

2. Each driver or bus monitor, whether provided by the center or through a contractor, shall be provided a current master transportation log.

F. Passenger Log

1. ...

2. The log shall be maintained on file at the center and a copy shall be provided to the driver or bus monitor.

3. - 3.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:642 (April 2015), effective July 1, 2015, amended LR 42:556 (April 2016), LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., October 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 137—Louisiana Early Learning Center Licensing Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes will result in an increase in expenditures by the Department of Education (LDE) for licensing activities related to the required criminal background checks (CBC) for persons associated with early learning centers. Costs not fully funded with self-generated revenues may be funded through federal funds out of the Child Care and Development Block Grant (CCDBG) available for this activity; however, this increase may result in a decrease in the availability of funds for other activities. At this time there is no monetary charge attached to obtaining information from the publicly available National Crime Information Center; however, fees may be required in the future. As a result of the increased workload LDE will need to hire staff in order to process required criminal background checks and projects the temporary addition of two analyst positions and the permanent addition of one accountant position for projected costs of \$164,485 (FY 18), \$161,485 in FY 19 and \$119,713 in FY 20. Future costs are expected to decrease as all existing individuals are brought up to current licensing requirements. There are no anticipated staffing needs for the Department of Children and Family Services (DCFS) to conduct the required background checks from the Louisiana Sex Offender and Crime Predator Register.

In 2014, the Child Care and Development Block Grant (CDBG) Act was reauthorized. Within the final rule, regulatory changes were made to the Child Care and Development Fund (CCDF) which included strengthening requirements to protect the health and safety of children in child-care in the form of more comprehensive background checks for providers. The federal law requires that all states use the same set of comprehensive background checks for all child-care teachers and staff. Moreover, the law requires that states' designated lead agency perform the requests for each of the components of the background checks on behalf of the providers; create a process whereby the lead agency determines whether the individual is either eligible or ineligible to work for child care purposes; and provide a robust appeals process for individuals determined by the lead agency as ineligible to work in the

child-care industry. In response to the federal law requiring these new measures, and as a condition to receive CCDF funds, the Louisiana legislature enacted Act 423 of 2017 to ensure compliance with, and to facilitate the implementation of the federal requirements within state law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase in revenues to the LDE associated with the collection of a \$15 fee for processing the requests for the criminal background checks and determining the eligibility for employees of early learning centers. LDE projects revenues for the department to be \$159,810 (FY 18), \$122,295 (FY 19), \$51,135 (FY 20 and FY 21) and \$31,680 (FY 22). Additionally, DCFS will assess a \$25 fee for background checks from the Louisiana Sex Offender and Crime Predator Register with projected revenues of \$266,350 (FY 18), \$203,825 (FY 19), \$85,225 (FY 20 and FY 21), and \$52,800 (FY22).

Currently, Early Learning Centers apply for the state fingerprint check for criminal background directly through law enforcement agencies. The provider receives the information and continues the hiring process. The federal law now requires LDE to request the criminal history and make a subsequent determination of eligibility to work in a child care setting. LDE expects to process in excess of 10,000 CBC requests within the first year of the program. The department projects the number of requests will decrease for years 2-5 with the fifth year turning into a "renewal" year for those CBCs that were performed in 2018.

Federal law requires states to have procedures in place that meet these requirements no later than September 30, 2017; however, a one-year extension has been granted. For any year that a state fails to substantially comply, five (5) percent of the CCDF funds will be withheld which could result in a loss of approximately \$4.4 M for LDE.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Under the proposed revisions, Early Learning Centers can expect operating expenses associated with the costs of criminal background checks to increase by \$52 for each employee background check. The extent of the increase will depend upon the size of the Centers' staff and the extent to which it experiences turnover and is required to pay for background checks for new employees.

The current cost for an Early Learning Centers totals \$41 per CBC; \$26 for the Louisiana State Police (LSP) to perform a check of the State Criminal History Record Information (CHRI) and \$15 to sheriff offices' for a fingerprinting fee. The proposed revisions reflect \$12 for LSP to also perform a check of the Federal Bureau of Investigations (FBI) Federal Criminal History Record Information reflect LDE's processing fee of \$15 to submit requests for criminal background checks on behalf of the providers. Additionally, DCFS charges a processing fee of \$25 (which LDE will collect and pass through) to perform the search of the Louisiana Sex Offender and Crime Predator Register. Thus, Early Learning Centers can expect costs for the new CBC to total \$93.

Nevertheless, the child-care CBCs are valid for five years and are portable to other centers within that time frame. Currently, a new CBC is required when an employee moves to another center or the individual is required to get a right to review, which is only valid for one year. The proposed rule allows for a portable CBC so that providers will not be required to pay for a criminal background check for an individual who has a current and eligible child care criminal background check. In turn, this benefit may result in a quicker hiring process for Early Learning Centers seeking to hire individuals who have

current eligible CBCs and therefore, help providers consistently maintain child-to-staff ratios as required by state policy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should not be any additional effect on competition as the requirement of a background check is already in place.

Beth Scioneaux
Deputy Superintendent
1709#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.103, 309, 310, 311, 313, 315, 505, 509, 513, and 521)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 139—Louisiana Child Care and Development Fund Programs*: §103, Definitions; §309, Specific Certification and Registration Requirements for Family Child Care Providers; §310, Child Care Criminal Background Checks (CCCBCs) for Family Child Care Providers and In-Home Child Care Providers; §311, Specific Certification Requirements for In-Home Child Care Providers; §313, Specific Certification Requirements for Public School and BESE-approved Nonpublic School Child Care Centers; §315, Specific Certification Requirements for Military Child Care Centers; §505, Households Categorically Eligible for CCAP; §509, Certification Requirements for Non-Categorically Eligible Households; §513, Prioritization of Funding and Waiting List; and §521, Recovery of Payments Made on Behalf of Ineligible Households. The proposed revisions update policy to align with recently enacted state and federal legislation.

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 1. Child Care Assistance Program

§103. Definitions

* * *

CCCBC—child care criminal background check.

* * *

Child Care Criminal Background Check (CCCBC)—information received by the department upon request for information pursuant to requirements set forth in R.S. 17:407.71 and 45 CFR 98.43(b).

* * *

Child Care Purposes—for home-based providers, child care purposes include being a family child care provider, an adult employed in the residence or on the property of the residence or an adult living in the residence where child care is being provided by a family child care provider; being an in-home child care provider, an adult employed in the home or on the property where care is being provided by an in-home provider, or being a non-caregiver adult living in the home where care is provided by an in-home provider; or

being any person present in either type of home or property when one or more children are in care and not expressly exempt from the requirements for a CCCBC-based determination of eligibility for child care purposes.

Criminal Background Check (CBC)—a fingerprint-based personal Louisiana criminal history information record obtained from the Louisiana Bureau of Criminal Identification and Information pursuant to R.S. 17:407.71. A CBC is satisfactory if it shows no arrests for any crime included in R.S. 15:587.1(C), or if an arrest is shown on the CBC for any excludable offense, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or nolo contendere shall be deemed to be a conviction.

* * *

Determination of Eligibility—determination by the department of a person's eligibility for child care purposes based on the results of a child care criminal background check (CCCBC).

* * *

Improper Payments—any payment that should not have been made or that was made in an incorrect amount (including underpayments or overpayments) under statutory, contractual, administrative, or other legally applicable requirements; and includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment and any payment for a service not received.

* * *

Special Needs Child Care—for the purpose of CCAP daily rates, child care for a child through age 17 who has a current individualized family services plan (IFSP) or individual education plan (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA) or who receives supplemental security income (SSI). Incentive payments up to 26 percent higher than the regular rates can be allowed for special needs child care. For children qualifying for the special needs child care rate, child care teachers shall be invited to participate in the IEP or IFSP team.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015), amended LR 42:42 (January 2016), LR 42:1870 (November 2016), LR 43:

Chapter 3. CCAP Provider Certification

§309. Specific Certification and Registration

Requirements for Family Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305 of this Part, a family child care provider must meet the following requirements, which include but are not limited to the requirements for registration as a family child care provider pursuant to R.S. 17:407.61 et seq.

1. - 5. ...

6. Determination of Eligibility for Child Care Purposes. Provide documentation of a CCCBC-based determination of eligibility for child care purposes by the department for required persons in compliance with §310 of this Part.

7. Louisiana Sex Offender and Child Predator Registry. Annually check Louisiana sex offender and child predator registry to determine if the name of any of the persons required to obtain a CCCBC-based determination of eligibility for child care purposes is recorded on the registry.

A.8. - B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1 and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015), amended LR 42:2173 (December 2016), LR 43:1279 (July 2017), LR 43:

§310. Child Care Criminal Background Checks (CCCBCs) for Family Child Care Providers and In-Home Child Care Providers

A. Determination of Eligibility

1. The department shall determine a person's eligibility for child care purposes based upon the results of the person's CCCBC.

2. Components of a CCCBC. A CCCBC shall include:

a. a request for a fingerprint-based search of the Louisiana criminal history information record;

b. a request for a fingerprint-based search of the federal criminal history information record;

c. a request to DCFS to search the state central registry of child abuse and neglect;

d. a search of the Louisiana sex offender and child predator registry;

e. a search of the national sex offender registry, as required by 45 CFR 98.43(b)(2); and

f. a request for a search of the name-based state criminal history information record, state offender registry, and state registry of child abuse and neglect in each state where the person resided in the past five years, as required by 45 CFR 98.43.43(b)(3).

3. The department shall determine that a person is either eligible or ineligible for child care purposes.

4. The department shall provide written notice of a CCCBC-based determination of eligibility for child care purposes in the following manner:

a. to the requesting home-based provider, the determination that the person is eligible or ineligible for child care purposes only, without revealing any disqualifying crime or other related information regarding the person; and

b. to the person for whom the home-based provider requested the determination of eligibility, the determination that the person is eligible or ineligible for child care purposes; and if the person is ineligible for child care purposes, information related to each disqualifying crime or other related information regarding the person and information about the opportunity to appeal the accuracy or completeness of the CCCBC results received by the department and used in the determination of eligibility.

B. Persons Ineligible for Child Care Purposes

1. A person shall be ineligible for child care purposes if the person:

a. refuses to consent to a CCCBC-based determination of eligibility for child care purposes;

b. knowingly makes a materially false or incomplete statement in connection with the CCCBC-based determination of eligibility for child care purposes;

c. has been convicted of or plead guilty or nolo contendere to any of the crimes listed in R.S. 15:587.1(C), or those of a jurisdiction other than Louisiana which would constitute a crime under the provisions cited in R.S. 15:587.1(C); or

d. is registered or required to be registered on the Louisiana sex offender and child predator registry, any other state sex offender registry, or the national sex offender registry.

2. A person shall also be ineligible for child care purposes if upon the department's written request to DCFS after March 1, 2018, for information as to whether a person's name is on the state central registry within DCFS, the department receives written notice from DCFS that the person's name is recorded on the state central registry as a perpetrator for a justified finding of child abuse or neglect.

a. Until the required written notice is received from DCFS indicating that a person's name is recorded on the state central registry as a perpetrator for a justified finding of child abuse or neglect, the department shall not withhold a determination that a person is eligible for child care purposes, unless the results of some other component of the person's CCCBC require a determination of ineligibility.

3. A person may also be ineligible for child care purposes if upon the department's request for information from another state, the department receives from the state written notice that the person's name is recorded on that state's registry or repository of child abuse and neglect as having a finding of child abuse or neglect or written notice that the person is ineligible for child care purposes.

C. Persons for Whom Home-Based Providers are Required to Obtain a CCCBC-Based Determinations of Eligibility for Child Care Purposes

1. Family Child Care Providers. A family child care provider shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for the following required persons:

- a. the provider;
- b. all adults employed in the home or on the property of the home where care is provided;
- c. all adults living in the residence where care is provided; and
- d. any other person in the home or on the premises when one or more children in care are present, who is not a household designee for a child in care at the home.

2. In-Home Child Care Providers. An in-home child care provider shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for the following required persons:

- a. the provider;
- b. all adults employed in the home or on the property of the home where care is provided;
- c. all non-caregiver adults living in the home where care is provided; and
- d. any other person in the home or on the premises when one or more children in care are present, who is not a household designee for a child in care at the home and who is not a caregiver who is exempt from the requirement of having a CCCBC-based determination of eligibility for child care purposes.

Caregivers, as defined in §103 of this Bulletin, who are living in the home, are exempt from the

requirement of having a CCCBC-based determination of eligibility for child care purposes.

D. Requests by Home-based Providers for CCCBC-Based Determinations of Eligibility for Child Care Purposes from the Department

1. A home-based provider shall request and obtain from the department a new CCCBC-based determination of eligibility for child care purposes for each required person in Subsection C of this Section:

a. prior to the home-based provider being certified as a CCAP provider;

b. prior to the person being present at the home or on the premises of the home when children in care are present; and

c. not less than once during a five-year period.

2. A home-based provider shall not be required to request and obtain from the department a new CCCBC-based determination of eligibility for child care purposes for a required person, and instead shall be able to request and obtain from the department the person's CCCBC-based determination of eligibility provided to another in-state child care provider or entity identified in §1809 of Bulletin 137, if:

a. a child care provider or entity within the state requested and obtained a CCCBC-based determination of eligibility for child care purposes from the department for the person within the past five years, while the person was employed with or seeking employment with that child care provider or entity; and

b. the department provided to the initial requesting child care provider or entity a CCCBC-based determination indicating the person was eligible for child care purposes; and

c. the person is still employed by a child care provider or entity within the state, or has been separated from a child care provider or entity within the state for less than 180 consecutive days.

3. Electronic fingerprints shall be used in parishes where they are available.

E. Transitional Provisions for Newly Required CCCBC-Based Determinations of Eligibility

1. CBCs and CCCBCs

a. Prior to March 1, 2018, home-based providers were required to obtain a criminal background check (CBC) from the Louisiana Bureau for each required person;

b. effective March 1, 2018, home-based providers must obtain a child care criminal background check (CCCBC)-based determination of eligibility for child care purposes from the department for each required person.

2. New Hires and Other Required Persons for whom a Home-Based Provider does not have an Existing Satisfactory CBC on March 1, 2018

a. A home-based provider shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for each required person in Subsection C of this Section for whom the center does not have a satisfactory CBC on March 1, 2018, prior to the person being present or performing services in the home or residence or on the property when children in care are present.

3. Existing Required Persons for whom a Provider has an Existing, Satisfactory CBC on March 1, 2018

a. A home-based provider that has an existing satisfactory CBC on March 1, 2018, for a required persons in Subsection C of this Section shall be required to request a CCCBC-based determination of eligibility for child care purposes from the department for such persons by submitting a request to the department and having the person for whom it is requested submit fingerprints to the bureau at the time of home-based provider's next renewal of certification or before August 1, 2018, whichever occurs first.

b. A home-based provider's existing, satisfactory CBC on March 1, 2018, for a required person who is continuing to provide services or be present at the home or residence or on the property, shall remain valid until the provider receives the new CCCBC-based determination of eligibility for child care purpose for the person, or until October 1, 2018, whichever is earlier, provided the provider has timely submitted a request to the department for a new determination of eligibility and the person for whom it was requested has timely submitted his fingerprints to the bureau.

F. Fees for CCCBC-Based Determinations of Eligibility for Child Care Purposes

1. All fees required to be paid to the Louisiana Department of Education shall be paid through its electronic payment system and are nonrefundable.

2. The department shall charge and collect a \$15 processing fee when it receives a request for a CCCBC-based determination of eligibility for child care purposes.

3. The department may also collect on behalf of the respective agencies the processing fees charged by DCFS for a search of its state central registry of child abuse and neglect, the Bureau of Criminal Identification and Information for a state criminal history report, the Federal Bureau of Investigation for a federal criminal history information report, the National Crime Information Center for a search of the national sex offender registry, and processing fees charged by other states, when it receives a request for a CCCBC-based determination of eligibility for a child care purposes.

G. Appeal of Accuracy or Completeness of CCCBC Results for Home-Based Providers

1. A person who has received a notice of ineligibility (NOI) for child care purposes from the department may appeal the accuracy or completeness of the CCCBC results received and used by the department to determine the person's ineligibility.

2. A person appealing the accuracy or completeness of the CCCBC results shall remain ineligible during the appeals process.

3. Request for Appeal of Accuracy or Completion of CCCBC Results

a. A request for such an appeal must be submitted in writing to the department, in a form provided by the department, within 45 calendar days of the date of issuance of the NOI.

b. To be sufficient, a request for appeal:

i. must contain written reasons that identify the specific information provided in the NOI that is believed to be inaccurate or incomplete; and

ii. should include official information and/or documentation of the accurate and/or complete information, if available.

c. Upon receipt of a request for appeal, the department shall determine whether the request is sufficient or insufficient, and shall notify the requestor in writing accordingly.

4. Review of Appeal

a. If the request for an appeal is sufficient, and no further information or documentation is required, the department shall complete the review of the appeal information and/or documentation and render a final written decision within 30 calendar days of receipt of the request for appeal.

b. If the request for an appeal is sufficient, but additional information and/or documentation is required to complete the appeal, the department shall notify the requestor in writing, and the requestor shall have 45 calendar days from the date of the request to provide the information and/or documentation.

i. If the required information and/or documentation is not received within the 45 days, the appeal may be denied for insufficiency of information and/or documentation.

ii. If the required information and/or documentation is received within 45 days, the department shall complete the review of the appeal information and/or documentation and render a final written decision within 30 calendar days of receipt of the required information and/or documentation or receipt of required information and/or documentation requested by the department on behalf of the requestor.

5. Result of Appeal

a. If as a result of the appeal process, the requestor's CCCBC results are revised, and based on the revised CCCBC results, the department determines the requestor is eligible for child care purposes, the department shall notify the appeal requestor and the original requesting home-based provider that the requestor is eligible for child care purposes by sending a notice of eligibility for child care purposes to both.

i. The notice of eligibility shall be valid from the date of issuance. The expiration date shall be five years from the date the original NOI was sent to the requestor and the requesting home-based provider.

b. If the appeals process does not result in a revision of the CCCBC results, or if it results in a revision to the CCCBC results, but based on the revised results, the requestor is still ineligible for child care purposes, the department shall notify the requestor in writing that the appeal is denied and that the determination of ineligibility remains in effect.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1 and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§311. Specific Certification Requirements for In-Home Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305, an in-home care provider must meet the following requirements which include, but are not limited to, the requirements for registration as an in-home provider pursuant to R.S. 17:407.61 et seq.

1. - 4. ...

5. Determination of Eligibility for Child Care Purposes. Provide documentation of a CCCBC-based determination of eligibility for child care purposes by the department for required persons in compliance with §310 of this Part;

6. Louisiana Sex Offender Sex Offender and Child Predator. Annually check Louisiana sex offender and child predator registry to determine if the name of any of the persons required to obtain a CCCBC-based determination of eligibility for child care purposes is recorded on the registry.

A.7. - B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1 and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2112 (October 2015), amended LR 42:2174 (December 2016), LR 43:1280 (July 2017), LR 43:

§313. Specific Certification Requirements for Public School and BESE-Approved Nonpublic School Child Care Centers

A. - E. ...

F. Determination of eligibility for child care purposes. Provide documentation of a CCCBC-based determination of eligibility for child care purposes by the department in compliance with Chapter 18 of *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2113 (October 2015), amended LR 42:2174 (December 2016), LR 43:

§315. Specific Certification Requirements for Military Child Care Centers

A. To be certified as a CCAP provider, a military child care center must meet the requirements in §305, have a valid child care license issued by the U.S. Department of Defense, and provide documentation of a CCCBC-based determination of eligibility for child care purposes by the department in compliance with Chapter 18 of *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1 and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2113 (October 2015), amended LR 43:

Chapter 5. CCAP Household Eligibility

§505. Households Categorically Eligible for CCAP

A. Households are categorically eligible for CCAP if they have household members who are:

1. recipients of Family Independence Temporary Assistance Program (FITAP) who are participating in the Strategies to Empower People (STEP) Program; or

2. children in foster care.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2115 (October 2015), amended LR 42:43 (January 2016), LR 43:

§509. Certification Requirements for Non-Categorically Eligible Households

A. To be certified as a CCAP household, households that are not categorically eligible for participation in CCAP must meet the following requirements:

1. - 3.b.ix. ...

4. provide the information and documentation necessary for determining the household eligibility and the amount of the monthly CCAP payment to be made to the provider; and

a. exception: if a household is experiencing homelessness, the household shall have 90 calendar days from the date of its initial determination of eligibility to submit documentation supporting the initial determination of eligibility.

5. - 5.e....

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 43:

§513. Prioritization of Funding and Waiting List [Formerly §509]

A. Prioritization. A household shall be prioritized for funding if the household has members who are:

1. recipients of Family Independence Temporary Assistance Program (FITAP) who are participating in the Strategies to Empower People (STEP) Program;

2. children in foster care;

3. children requiring special needs care, as special needs care is defined in §103 of this Bulletin;

4. children experiencing homelessness;

5. children actively participating in an early head start-child care partnership (EHS-CCP).

B. Prioritized households shall be funded and not added to the waiting list.

C. Waiting List. A statewide waiting list of eligible households shall be established and maintained. Households added to the waiting list shall be added in chronological order based on the date the household's completed application is received by the department. As slots become available, the household that has been on the waiting list the longest shall be selected from the waiting list and considered for current eligibility.

D. The department has the authority to implement an application freeze based on the lack of available child care funds to operate CCAP.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 43:

§521. Recovery of Payments Made on Behalf of Ineligible Households [Formerly §511]

A. ...

B. Action will be taken to recover all payments made on behalf of:

1. ineligible households that are currently participating in CCAP;

2. any ineligible household resulting from the household's act of fraud, such as the submission of false or altered documents or information, intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant fact;

3. any ineligible household resulting from errors that are discovered in a quality control review; and

4. any ineligible service that results in an improper overpayment.

C. If a household does not timely repay improper payments made on its behalf, other than those exceptions provided in Subsection A of this Section, the department may refer such unrecovered payments to the Office of the Attorney General for collection, and the household owing the payments shall be assessed, and shall be required to pay, the additional collection fee assessed by the Office of the Attorney General.

D. The department has the authority to implement an application freeze based on the lack of available child care funds to operate CCAP.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:45 (January 2016), LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., October 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand-delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 139—Louisiana Child Care and Development Fund Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes will result in an increase in expenditures by the Department of Education (LDE) for licensing activities related to the required criminal background checks (CBC) for persons associated with early learning centers. Costs not fully funded with self-generated revenues may be funded through federal funds out of the Child Care and Development Block Grant (CCDBG) available for this activity; however, this increase may result in a decrease in the availability of funds for other activities. At this time there is no monetary charge attached to obtaining information from the publicly available National Crime Information Center;

however, fees may be required in the future. As a result of the increased workload LDE will need to hire staff in order to process required criminal background checks and projects the temporary addition of two analyst positions and the permanent addition of one accountant position for projected costs of \$164,485 (FY 18), \$161,485 in FY 19 and \$119,713 in FY 20. Future costs are expected to decrease as all existing individuals are brought up to current licensing requirements. There are no anticipated staffing needs for the Department of Children and Family Services (DCFS) to conduct the required background checks from the Louisiana Sex Offender and Crime Predator Register.

In 2014, the Child Care and Development Block Grant (CDBG) Act was reauthorized. Within the final rule, regulatory changes were made to the Child Care and Development Fund (CCDF), which included strengthening requirements to protect the health and safety of children in child-care in the form of more comprehensive background checks for providers. The federal law requires that all states use the same set of comprehensive background checks for all child-care teachers and staff. Moreover, the law requires that states' designated lead agency perform the requests for each of the components of the background checks on behalf of the providers; create a process whereby the lead agency determines whether the individual is either eligible or ineligible to work for child care purposes; and provide a robust appeals process for individuals determined by the lead agency as ineligible to work in the child-care industry. In response to the federal law requiring these new measures, and as a condition to receive CCDF funds, the Louisiana legislature enacted Act 423 of 2017 to ensure compliance with, and to facilitate the implementation of the federal requirements within state law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an indeterminable decrease in the state general fund from state income tax collections due to the revisions to the Early Learning Center Career Development System. The proposed revisions to credentials for directors and staff in early learning centers may result in an increase in the number of individuals eligible for School Readiness Tax Credits authorized under LRS 47:6101, thereby reducing the amount of revenues collected by the state under the individual income tax provisions; the extent of such reduction is indeterminable at this time.

There will be an increase in revenues to the LDE associated with the collection of a \$15 fee for processing the requests for the criminal background checks and determining the eligibility for employees of early learning centers. LDE projects revenues for the department to be \$159,810 (FY 18), \$122,295 (FY 19), \$51,135 (FY 20 and FY 21) and \$31,680 (FY 22). Additionally, DCFS will assess a \$25 fee for background checks from the Louisiana Sex Offender and Crime Predator Register with projected revenues of \$266,350 (FY 18), \$203,825 (FY 19), \$85,225 (FY 20 and FY 21), and \$52,800 (FY22).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Under the proposed revisions, Early Learning Centers can expect operating expenses associated with the costs of criminal background checks to increase by \$52 for each employee background check. The extent of the increase will depend upon the size of the Centers' staff and the extent to which it experiences turnover and is required to pay for background checks for new employees.

The current cost for an Early Learning Centers totals \$41 per CBC; \$26 for the Louisiana State Police (LSP) to perform a check of the State Criminal History Record Information

(CHRI) and \$15 to sheriff offices' for a fingerprinting fee. The proposed revisions reflect \$12 for LSP to also perform a check of the Federal Bureau of Investigations (FBI) Federal Criminal History Record Information and LDE's processing fee of \$15 to submit requests for criminal background checks on behalf of the providers. Additionally, DCFS charges a processing fee of \$25 (which LDE will collect and pass through) to perform the search of the Louisiana Sex Offender and Crime Predator Register. Thus, Early Learning Centers can expect costs for the new CBC to total \$93.

Nevertheless, the child-care CBCs are valid for five years and are portable to other centers within that time frame. Currently, a new CBC is required when an employee moves to another center or the individual is required to get a right to review, which is only valid for one year. The proposed rule allows for a portable CBC so that providers will not be required to pay for a criminal background check for an individual who has a current and eligible child care criminal background check. In turn, this benefit may result in a quicker hiring process for Early Learning Centers seeking to hire individuals who have current eligible CBCs and therefore, help providers consistently maintain child-to-staff ratios as required by state policy.

Directors and Staff at early learning centers may qualify for the School Readiness Tax Credit to the extent they are impacted by the revised eligibility criteria in proposed revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should not be any additional effect on competition as the requirement of a background check is already in place.

Beth Scioneaux
Deputy Superintendent
1709#024

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook
for School Administrators
(LAC 28: CXV.901, 1307, 1315, 2318, 2319, and 2345)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 741—Louisiana Handbook for School Administrators*: §901, Scheduling; §1307, Reasons for Expulsion; §1315, Corporal Punishment; §2318, The TOPS University Diploma; §2319, The Career Diploma; and §2345, Foreign Languages. The proposed revisions align policy with recently enacted state legislation, and updates policy relative to high school end of course tests, class rank and weighted grade point average parental requests, and foreign languages.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 9. Scheduling

§901. Scheduling

A. - D.4. ...

E. In order to support students applying for financial aid, beginning with the 2017-2018 school year, each high school shall, upon written request of the parent/legal custodian of a

graduating senior, provide the student's parent/legal custodian with the student class rank, weighted grade point average, and unweighted grade point average.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175 and R.S. 17:183.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010), LR 39:2204 (August 2013), LR 40:2522 (December 2014), LR 42:557 (April 2016), LR 43:

Chapter 13. Discipline

§1307. Reasons for Expulsions

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in §1305, may be expelled upon recommendation by the principal of the public school in which the student is enrolled;

A.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008), LR 39:2211 (August 2013), LR 43:

§1315. Corporal Punishment

A. ...

B. No form of corporal punishment shall be administered to a student with an exceptionality, excluding students identified as gifted and talented, as defined in R.S. 17:1942, or to a student who has been determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.

C. Corporal punishment means using physical force to discipline a student, with or without an object, and includes hitting, paddling, striking, spanking, slapping, or any other physical force that causes pain or physical discomfort.

D. Corporal punishment does not include:

1. the use of reasonable and necessary physical restraint of a student to protect the student or others, from bodily harm or to obtain possession of a weapon or other dangerous object from a student; nor

2. the use of seclusion and restraint as provided in R.S. 17:416.21.

E. Each LEA shall adopt a policy establishing procedures for the investigation of employees accused of impermissible corporal punishment.

F. Each LEA shall collect and report corporal punishment data according to procedures established by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6, R.S. 17:223, and R.S. 17:416.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 39:2212 (August 2013), LR 43:

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - A.2. ...

B. Assessment Requirements

1. For incoming freshmen prior to 2010-2011, students must pass the English language arts and mathematics components of the GEE or LEAP alternate assessment, level 2 (LAA 2) and either the science or social studies portions of GEE or LAA 2.

1.a. - 2.b. ...

3. Students enrolled in a course for which there is an EOC or LEAP 2025 test must take the EOC or LEAP 2025 test.

a. The EOC or LEAP 2025 test score shall count a percentage of the student's final grade for the course. During the transition to new tests, the requirement to count a LEAP 2025 test score as a percentage of the student's final grade will be waived for high school state assessments as follows:

i. English I, English II, algebra I, and geometry scores from the fall 2017 administration;

ii. U.S. history scores from the fall and spring administrations in 2017-2018; and

iii. biology scores from the fall and spring administrations in 2018-2019.

b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

i. For students with disabilities identified under IDEA who meet the participation criteria found in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*, §405.B and R.S. 17:183.2, the EOC test score shall count for 5 percent of the students' final grade for the course.

c. - d. ...

4. Repealed.

B.5. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:

§2319. The Career Diploma

A. - A.2. ...

B. Assessment Requirements

1. For incoming freshmen prior to 2010-2011, students must pass the English language arts and mathematics components of the GEE or LEAP alternate assessment, level 2 (LAA 2) and either the science or social studies portions of GEE or LAA 2.

1.a. - 2.b. ...

3. Students enrolled in a course for which there is an EOC or LEAP 2025 test must take the EOC or LEAP 2025 test.

a. The EOC or LEAP 2025 test score shall count a percentage of the student's final grade for the course. During the transition to new tests, the requirement to count a LEAP 2025 test score as a percentage of the student's final grade will be waived for high school state assessments as follows:

i. English I, English II, algebra I, and geometry scores from the fall 2017 administration;

ii. U.S. history scores from the fall and spring administrations in 2017-2018; and

iii. biology scores from the fall and spring administrations in 2018-2019.

b. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

i. For students with disabilities identified under IDEA who meet the participation criteria found in *Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities*, §405.B and R.S. 17:183.2, the EOC test score shall count for 5 percent of the students’ final grade for the course.

c. - d. ...

4. Repealed.

B.5. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:

Subchapter B. Academic Programs of Study

§2345. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each
American Sign Language I, II, III, IV	1 each
Greek I, II, III, IV	1 each
Chinese I, II, III, IV	1 each
Japanese I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Arabic I, II, III, IV	1 each
Korean I, II, III, IV	1 each
IB Language ab initio: Arabic	1
IB Language B: Arabic	1
AP Chinese Language and Culture	1
AP French Language and Culture	1
AP German Language and Culture	1
AP Italian Language and Culture	1
AP Japanese Language and Culture	1
AP Latin	1
AP Spanish Language and Culture	1
IB Language ab initio: French	1
IB Language B: French	1
IB Language ab initio: Spanish	1
IB Language B: Spanish	1
IB Language ab initio: German	1
IB Language B: German	1
IB Language ab initio: Chinese	1
IB Language B: Chinese	1

Course Title(s)	Units
IB Language ab initio: Italian	1
IB Language B: Italian	1
IB Language ab initio: Japanese	1
IB Language B: Japanese	1
IB Classical Language	1

B. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:2220 (August 2013), LR 40:998 (May 2014), LR 40:2527 (December 2014), LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word *poverty* means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs (LAC 28:XLV.Chapters 1-7 and 11)

businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., October 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 741—Louisiana Handbook for School Administrators**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs or savings for state or local governmental units. The proposed policy revisions align policy with Act 266 of 2017 related to corporal punishment; updates policy relative to the provision of certain student data to parents/legal guardians; and updates assessment and curriculum requirements for the TOPS University and Career Diploma.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy change will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1709#023

Evan Brasseaux
Staff Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs*: §101, Purpose; §103, National Accreditation Standards; §105, State Adoption of National Accreditation Standards; §107, The Partnership Agreements; §109, State Standards; §301, Process/Procedures; §303, Initial Approval; §305, Level II Approval; §307, Level III Approval; §309, Level IV Approval; §401, Ongoing Approval of Teacher Preparation Programs; §403, Teacher Preparation Quality Rating System Participation and Performance Profile Implementation Timeline; §405, Louisiana Teacher Preparation Quality Rating System; §407, Quality Rating Calculation; §409, Performance Profiles; §411, Informational Profiles; §413, Reporting for the Accountability System; §415, Data Verification, Appeals, and Waivers; §501, Process/Procedures; §503, Preliminary Review; §505, Evaluation Process; §507, Board Approval; §509, Board Denial; §741, Introduction; §743, Minimum Requirements for Traditional Teacher Preparation Programs; and §745, Minimum Requirements for Alternate Teacher Preparation Programs. These proposed changes provide relative to a teacher preparation quality rating system.

Title 28

EDUCATION

Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs

Chapter 1. Introduction

§101. Purpose

A. Bulletin 996 is intended to guide educator preparation providers in the development and review of new and existing teacher and/or educational leader preparation programs, to guide the review of teacher and/or educational leader preparation programs in Louisiana, and to inform all interested persons of the Louisiana standards for teacher and educational leader preparation programs and the procedures for program evaluation.

B. This bulletin establishes policies relative to the initial and ongoing approval of teacher and educational leader preparation programs relative to the following:

1. the initial approval of a teacher and educational leader preparation program from which graduates or completers may be certified per Part CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, Chapter 2, Subchapter A;

2. the alignment of approved programs to updated certification and preparation requirements, including updates to state birth to five learning and development standards and state academic content standards for elementary and secondary education, as appropriate and deemed necessary by BESE;

3. the ongoing approval of teacher preparation programs, including the establishment and implementation of a uniform quality rating system to serve as the basis for such ongoing approval decisions;

4. the fulfillment of all other obligations pursuant to federal and state law with respect to the initial and ongoing approval of teacher and educational leader preparation programs from which graduates or completers may be certified; and

5. the fulfillment of these duties and obligations in alignment with the Board of Regent's (BOR) constitutional authority to regulate public institutions of higher education.

C. Beginning December 1, 2017, a uniform process for initial and ongoing program approval that applies equally to university and non-university providers shall be used. A uniform quality rating system shall serve as the basis for renewal decisions.

D. BESE shall provide for regular checkpoints to refine the quality rating system. Annually beginning winter 2017-2018, and every winter thereafter for a period of five years, the LDE shall provide a report to BESE relative to the results of pilots, study findings, and progress of preparation providers toward updated program design expectations. At such checkpoints the LDE shall submit to BESE a brief written report and recommendations, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), LR 43:

§103. National Accreditation Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

§105. State Adoption National Accreditation Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

§107. The Partnership Agreements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

§109. State Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

Chapter 3. Initial State Approval for Teacher or Educational Leader Preparation Programs

§301. Process/Procedures

[Formerly §201]

A. No later than July 1, 2018, teacher preparation programs shall demonstrate alignment to Part CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, and this bulletin as revised and approved by BESE in October 2016. Teacher preparation providers with extenuating circumstances may request an extension of the July 1, 2018, deadline to demonstrate alignment to revised policies. Providers shall submit the extension request by January 1, 2018, for BESE consideration.

B. The LDE and the (BOR) staff shall reviews proposals from public and private, new or reinstated teacher or educational leader preparation pathways or programs for initial approval. When the application review is complete and the application is recommended for approval, a recommendation shall be made to BESE and, when applicable, BOR for initial approval. Upon approval by BESE and, when applicable, BOR, the teacher or educational leader preparation program may begin admitting candidates to the teacher or educational leader program.

C. The state may conduct scheduled and/or unscheduled reviews of the teacher and/or educational leader preparation unit/program, including on-site visits, at any time during the process.

D. Public and out-of-state private universities' documents may be submitted to the BOR for program approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2452 (November 2004), amended LR 35:2327 (November 2009), LR 37:560 (February 2011), LR 43:

§303. Initial Approval

[Formerly §203]

A. Initial approval is granted upon approval by BESE and, when applicable BOR, through submission of a proposal to the LDE.

B. University and non-university providers seeking approval to offer a teacher or educational leader preparation program shall demonstrate eligibility by providing, at a minimum:

1. official declaration of intent in the form of a letter from the head of the institution or organization;

2. evidence of regional accreditation status (e.g., Southern Association of Colleges and Schools) for universities only;

3. evidence that the faculty who teach courses or provide direct coaching to teacher or educational leader candidates possess sufficient knowledge, skills, training, and expertise;

4. evidence to show that the governing structure of the institution or organization endorses and financially supports a teacher or educational leader preparation unit and programs (e.g., full budget report for the implementation of programs, including internal and external sources of funding, and including both hard and soft monies);

5. evidence of an articulation agreement to transfer credit hours with another Louisiana-approved teacher or educational leader preparation institution that agrees to recommend the institution's candidates for certification, as needed, for continuous progress and program completion or, for non-university providers, a plan to make students financially whole in the event of institution or program closure;

6. a description of the provider's system for monitoring and evaluating its candidates, programs, operations, and the performance of its graduates. This description must reflect how the education unit or education program assesses programs, effectiveness, and candidates as well as how the provider provides follow-up data on its graduates;

7. if the provider is currently operating or has operated in Louisiana or any other state, evidence of program completers' teaching and/or leading effectiveness, including but not limited to principal survey results, state accountability system and evaluation results, and local assessment or evaluation results.

C. In order to be recommended for BESE approval, teacher preparation programs must, at minimum:

1. be designed to develop and ensure candidates' mastery of the teacher and/or educational leader competencies required for certification. The program design must center on courses and practice experiences that integrate content, theory, and practice; expressly treat current Louisiana student standards and instructional resources; and require candidates to demonstrate mastery of required competencies through a series of performance assessments and tasks:

a. in undergraduate programs offered by university providers, descriptions of coursework must include evidence of ample opportunity to develop content area mastery, instruments for assessing candidates' content knowledge, and procedures for remediation, if necessary. For the purposes of initial approval, an academic major in the content area for secondary certification areas may be considered evidence of "ample opportunity;"

b. in post-baccalaureate programs offered by university and non-university providers, descriptions of coursework or contact hours must include instruments for assessing candidates' content knowledge for teaching and/or leading, and procedures for remediation, if necessary;

2. pursuant to R.S. 17:7.1.4(a)(b), teacher preparation programs shall include the minimum number of credit hours or equivalent contact hours in the teaching of reading and literacy as follows. The required courses or training shall develop and assess candidates' mastery of applicable literacy competencies, which are found in Part CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*;

3. include required practice experiences for teacher preparation, including, at minimum, a one-year supervised residency in a school setting. In addition to the one-year residency, the candidate must be provided actual practice experience in classroom settings within schools with varied socioeconomic characteristics. The requirements for the one-year residency and for required practice experiences for undergraduate and post-baccalaureate preparation programs are described in detail in Chapter 7 of this bulletin. Evidence

of quality must include, but is not limited to, the provider's commitment to:

a. recruit, develop, and evaluate clinical faculty who model effective practical teaching knowledge and skills; and

b. ensure alignment of program faculty, residency school site administrator, and residency school site mentor teacher expectations for candidates' development and performance;

4. be jointly developed and administered in partnership with one or more local educational agencies in which candidates complete the one-year residency. Evidence of partnership shall include, but not be limited to, a formal agreement, such as a memorandum of understanding or memorandum of agreement, that includes:

a. roles of and responsibilities of program faculty, LEA leaders, residency school site administrators, and residency school site mentor teachers;

b. criteria and process for residency school site selection, development, and evaluation of effectiveness, to occur in concert with LEA leadership;

c. targets, criteria, and process for mentor teacher recruitment, development, and evaluation, to occur in concert with LEA leadership;

d. protocols for administering assessments of candidates' teaching skill in cooperation with the residency school site administrator or his/her designee during the one-year residency and in general alignment with the partner LEA's teacher evaluation system pursuant to the requirements in Teacher Preparation/Certification/Evaluation, *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*; and

e. protocols for the secure exchange of data relative to program improvement and evaluation.

D. The LDE shall utilize evaluation tools to conduct qualitative assessments of teacher and/or educational leader proposals to make initial approval recommendations. The evaluation tools must align to the requirements set forth in this bulletin, including, but not limited, to Louisiana state standards for teacher preparation outlined in Chapter 1 of this bulletin.

E. Upon receipt, teacher and/or educational leader proposals shall undergo a preliminary review by the LDE for completeness. Proposals that are determined to be complete and meet all initial submission requirements shall undergo an evaluation process conducted by panel of reviewers. Proposals that do not meet all initial submission requirements shall receive a notice of pending denial. Providers shall provide the required material within seven days. If providers do not provide the required material, the proposal shall be denied. Proposals may be resubmitted no sooner than one calendar year following the date of initial submission to the LDE.

F. Teacher and/or educational leader proposals that meet all initial submission requirements shall be evaluated by a panel of reviewers. The panel shall include at least one external reviewer. An external reviewer may serve as a preparation program administrator, a preparation program faculty member, or a current or former K-12 educator or leader. The panel shall evaluate each proposal using an evaluation tool that was reviewed by representatives from LDE and BOR and shall evaluate the proposal to ensure the

proposal meets professional, state, and, when applicable, national standards for quality and state certification policy. The panel's evaluation shall include an interview with the provider and at least one partner LEA. The panel may interview additional representatives of the provider and LEA partner organizations.

G. The result of the evaluation shall be sent by the LDE to the teacher and/or educational leader provider. A proposal that fully meets all structural and policy requirements according to the program proposal guidelines shall be recommended for BESE approval at the next scheduled BESE meeting. A proposal that is not recommended by the LDE for approval because it does not meet the policy or structural requirements according to the program proposal guidelines may be resubmitted to the LDE for reconsideration no sooner than one calendar year following the date of initial submission to the LDE. Proposals that are not recommended for approval a second time or are recommended for approval by the LDE but not approved by BESE may be resubmitted to the LDE for reconsideration no sooner than two calendar years following the date of resubmission to the LDE.

H. BESE shall notify the point of contact listed in the proposal submitted by the teacher and/or educational leader providers of the decision. Notification will be sent in writing via US mail.

1. Once BESE has granted initial approval of the proposed program, the provider is authorized to admit candidates to the program and recommend program completers for certification. Providers subject to BOR regulations shall gain BOR approval prior to admitting candidates to the program.

2. If BESE does not grant initial approval of the proposed program, the teacher or educational leader provider is eligible to resubmit the proposal. Proposals that are not recommended by BESE for approval may be resubmitted to the LDE for reconsideration no sooner than one calendar year following the date of initial submission to the LDE. Proposals that are not recommended by BESE for approval a second time may be resubmitted to the LDE for reconsideration no sooner than two calendar years following the date of resubmission to the LDE.

I. Teacher and/or educational leader proposals for initial approval shall be accepted and considered by BESE twice per year. Application timelines shall be established and published annually one year in advance of the notice of intent deadline for the first application cycle.

J. Approved teacher and/or educational leader preparation providers seeking approval to pilot innovative approaches to training teacher and/or educational leader candidates shall request BESE approval to pilot such approaches and recommend certification of candidates upon completion of the program.

K. BESE may rescind program approval if the teacher and/or educational leader preparation program has been found to be or have been operating outside of the teacher preparation program requirements outlined in this subchapter and in Part CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2453 (November 2004), amended LR 35:2327 (November 2009), LR 37:561 (February 2011), LR 43:

§305. Level II Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

§307. Level III Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

§309. Level IV Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

Chapter 4. Teacher Preparation Program Accountability and Renewal of Teacher Preparation Program Approval

§401. Ongoing Approval of Teacher Preparation Programs

[Formerly §1101]

A. In order to offer a state-approved teacher preparation program that allows teachers to become certified by the LDE, teacher preparation providers shall follow the process/procedures detailed in Chapter 3 of this document. For continued state approval, university and non-university providers must maintain effective ratings on the Louisiana teacher preparation quality rating system.

B. The LDE shall annually produce and make publicly available a performance profile for each approved preparation provider that includes information at the pathway level. The LDE shall biennially produce and make publically available a quality rating for each approved preparation provider at the pathway level. A *pathway* is defined as the set of teacher preparation programs that are offered to undergraduate candidates and the set of teacher preparation programs that are offered to post-baccalaureate candidates.

C. Renewal decisions shall be made every two years during the first accountability cycle and shall be based on the quality rating produced biannually. Each teacher preparation provider that receives a quality rating of level 3 or above shall move to a four-year accountability cycle for that pathway.

D. Teacher preparation providers that do not maintain a quality rating of level 3 or above on the Louisiana teacher preparation quality rating system and as reported in the biennial quality rating shall:

1. undergo a corrective action period during which the provider develops an improvement plan that includes

specific improvement goals, timelines, and measures of success for particular pathway(s) or program(s). The improvement plan shall be approved by BESE. Once approved, the provider shall submit progress reports to BESE as established in the approved plan.

2. BESE shall review data outlined in the improvement plan and the Louisiana teacher preparation quality rating system to inform required interventions, which shall include, but are not limited to, one or more of the following:

- a. require the provider to enact certain improvement recommendations for one or more pathways or programs;
- b. designate program(s) as low performing and at risk of low performance per the federal Higher Education Act;
- c. limit or discontinue enrollment for one or more pathways or programs;
- d. discontinue the provider’s ability to recommend teacher candidates for certification in one or more pathways or programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:754 (April 2010), amended LR 37:565 (February 2011), LR 43:

§403. Teacher Preparation Quality Rating System Participation and Performance Profile Implementation Timeline

A. Per §101 of this bulletin, beginning December 1, 2017 the process for ongoing approval of teacher preparation programs shall be replaced with a uniform process that applies equally to university and non-university providers.

B. Prior to fall 2018, the LDE shall review this Chapter and recommend revisions to BESE as necessary and as based on findings from the design phase, and in consultation with the BOR and K-12 and higher education experts.

C. The 2017-2018 academic year shall be a research phase for the teacher preparation quality rating system. Performance measures and processes shall be piloted and studied. Evaluation tools, including a framework for the on-site review, shall be developed and reviewed by experts to ensure suitability for use in the teacher preparation quality ratings system. If produced, individual providers’ performance profiles shall not be published.

D. Beginning with the 2018-2019 academic year, providers that do not participate in the quality rating system or any component thereof shall have their approval terminated.

E. The 2018-2019 and the 2019-2020 academic years shall be a learning phase for all BESE-approved teacher preparation providers. There shall be no consequences for teacher preparation providers as a result of performance profiles or quality rating during the learning phase. Performance profiles for the 2018-2019 and 2019-2020 learning phase shall be publicly available and shall clearly indicate that the performance profile is informational and assigned during a learning phase.

F. The 2020-2021 academic year shall be the first year of the initial two-year renewal cycle.

G. For providers that achieve initial approval after September 1, 2018, the renewal cycle shall begin on September 1 of the year directly following BESE approval.

H. Beginning winter 2019-2020, the LDE shall annually produce and make publicly available on its website a performance profile for each approved preparation provider. LDE shall biennially produce and make publicly available on its website a quality rating for each approved preparation provider. The quality rating shall not be used to make judgments about renewal of preparation program approval until winter 2022-2023.

I. Beginning with ratings assigned in winter 2022-2023, Louisiana teacher preparation quality rating system results shall serve as the basis for preparation program renewal. The renewal cycle shall be two years. The renewal cycle shall be four years for teacher preparation providers that receive a level 3 or higher, contingent upon maintaining a level 3 or higher as reported on the next performance profile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§405. Louisiana Teacher Preparation Quality Rating System

A. The Louisiana teacher preparation quality rating system shall serve as the basis for the renewal of teacher preparation program approval. The rating system shall:

- 1. include multiple measures of preparation program success; and
- 2. result in an annual report (“performance profile”) for each approved provider at the pathway level;
- 3. result in a biennial rating (“quality rating”) for each approved provider at the pathway level.
 - a. The ratings shall be:

Quality Rating	Composite Score Range
Level: Ineffective	$x < 1.5$
Level 2: Needs Improvement	$1.5 \leq x < 2.5$
Level 3: Effective	$2.5 \leq x < 3.5$
Level 4: Highly Effective	$3.5 \leq x$

B. The Louisiana teacher preparation quality rating system shall include but not be limited to the following domains:

1. preparation program experience, as measured by on-site reviews of each teacher preparation provider. The on-site review shall be conducted at the provider level and shall result in one rating for each pathway. The on-site review shall also include reporting at the program level, when appropriate. An on-site review shall be conducted once per renewal cycle. Providers participating in a two-year renewal cycle shall be reviewed every other year; providers participating in a four-year renewal cycle shall be reviewed once during the four-year cycle. The biennial quality rating shall reflect the most recently issued on-site review rating. When logistically and fiscally feasible and appropriate, the provider may request the specific years and semesters during which the on-site review is conducted. Such requests must be submitted to the LDE no less than one year before the renewal period begins:

- a. on-site reviews may be conducted by the LDE or by a BESE-approved contractor with demonstrated expertise in teacher preparation. The evaluation tools used to conduct on-site reviews shall align to the requirements set forth in this bulletin and provide for a holistic rating between 1 and 4;

2. meeting educator workforce needs, as measured by the percentage of program completers in high-need certification areas and/or the percentage of residents placed in high-need schools:

a. for this domain, program completers shall include candidates who were recommended for initial licensure as well as candidates who completed at least 80 percent of an add-on endorsement with one preparation provider;

b. high-need certification areas shall be established every four years, beginning fall 2017 and every fall four years thereafter. High-need certification areas are those that align with the highest percentage of classes being taught by out-of-field or uncertified teachers across the state;

c. a list of high-need schools shall be established every four years, beginning fall 2017 and every fall four years thereafter. High-need schools may be defined as:

i. schools with a high percentage of minority or economically disadvantaged students;

ii. schools that are less geographically proximate to teacher preparation providers or schools underserved by current teacher preparation providers;

d. district-based teacher preparation programs may use the same methodology described above to define high-need certification areas and high-need schools at the local level;

3. teacher quality:

a. teacher quality shall be measured by program completers' value-added results for up to but not more than three years following program completion; and other measures of program completers' impact on student learning, as approved by BESE;

b. the teacher quality domain shall undergo a research phase during which such measures are developed and tested in consultation with the BOR and K-12 and higher education experts. By fall 2018, the LDE shall recommend such measures to BESE, if appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§407. Quality Rating Calculation

A. The LDE in collaboration with the BOR and K-12 and higher education experts shall periodically review the overall rating calculation including, but not limited to, data collected on the informational metrics and determine whether additional factors should be included in the rating calculation and whether adjustments should be made to the rating calculation. The LDE shall submit a report to BESE relative to the teacher preparation quality rating system in winter 2018-2019 and every two years thereafter, as deemed necessary and appropriate. Such report(s) shall include recommendations relative to refinements to the teacher preparation quality rating system including, but not limited to, adjustments to the factors included in the rating calculation, the overall rating calculation, and indices.

B. The quality rating for a preparation provider shall be calculated by weighting each domain as follows.

1. Preparation program experience shall be weighted at 50 percent.

2. Meeting educator workforce needs shall be weighted at 25 percent.

3. Teacher quality shall be weighted at 25 percent.

C. The quality rating for a preparation provider with a low number of program completers shall be calculated using only the domain(s) for which scores can be calculated.

D. The quality rating corresponds to the composite score range listed below. All numbers used in the quality rating calculation process shall be rounded to the nearest tenth, unless otherwise specified.

Quality Rating	Composite Score Range
Level 1: Ineffective	$x < 1.5$
Level 2: Needs Improvement	$1.5 \leq x < 2.5$
Level 3: Effective	$2.5 \leq x < 3.5$
Level 4: Highly Effective	$3.5 \leq x$

E. The preparation program experience score shall be determined by the on-site review rating.

On-Site Review Rating	Score Range
Level 1: Ineffective	$x = 1$
Level 2: Needs Improvement	$x = 2$
Level 3: Effective	$x = 3$
Level 4: Highly Effective	$x = 4$

F. The meeting workforce needs score shall be determined by calculating the percentage of program completers in high-need certification areas and the percentage of program candidates completing residencies in high-needs schools.

1. Points are earned on a four-point scale according to:

Percentage of Program Completers in a High-Need Areas/Residents in a High-Need School	Points
Below Need—below need for both measures	2.0
Meets Need—at need or up to 20 percentage points above need for at least one measure	2.5
Exceeds Need—more than 20 percentage points above need for one measure	3.0
Exceeds Need—more than 20 percentage points above need for both measures	3.5
Exceptional—more than 40 percentage points above need for one or both measures	4.0

G. The LDE, in collaboration with the BOR and K-12 and higher education experts, shall study and propose to BESE in winter 2018-2019 the adoption of an index for the value-added measure of teacher preparation program completers and, if appropriate, the adoption of a new licensure assessment and a corresponding scoring methodology for the teacher quality domain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§409. Performance Profiles

A. The LDE shall develop and make publicly available a performance profile for each approved preparation provider beginning winter 2019-2020, and every winter thereafter. The performance profile shall include a quality rating as provided for in §405, including the scores and measures contributing to that quality rating, and informational metrics as provided for in §411.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§411. Informational Metrics

A. Informational metrics provide additional detail relative to the teacher preparation quality rating system domains and other measures of teacher preparation provider quality. Informational metrics may be reported at the program or pathway level and may include data relative to the placement of teachers in Louisiana schools; and the retention of teachers in Louisiana schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education. LR 43:

§413. Reporting for the Accountability System

A. By December 31 each year, preparation providers shall annually report to the LDE, in the manner specified by the LDE, the following.

Data Categories	Data Elements
Candidate and Graduate Biographical and Program Data	Name
	Birthdate
	Social Security Number
	Gender
	Race/Ethnicity
	Institution name
	Program type (e.g., undergraduate, post-baccalaureate; certification-only, MAT)
	Student category(candidate or graduate)
	Date candidate admitted to program
	Date candidate graduated or completed program
	Number of candidates who dropped from program during most recent academic year
	Certification area(s)
	Certification code(s)
Candidate Admissions and Test Data	GPA when admitted to program
	High school GPA
	ACT or SAT score
	Date ACT or SAT was taken
	Highest post-baccalaureate degree achieved
	GRE score
	Praxis tests taken
	Praxis scores
	TEACH Grant recipient status
TOPS Award Recipient Status	
Graduates' Completion Data	Observation scores used to make certification recommendations
	Grade Point Average at program completion

B. Program completers shall be defined as candidates who completed their programs during the most recent academic year, which is defined as September 1 of one year to August 31 of the following year.

C. This annually reported data, coupled with certification and effectiveness data from the LDE, shall form the official record for the calculation of the quality rating. The LDE shall provide for a data verification process for the official record as outlined in §415 of this bulletin.

D. Preparation providers shall report candidate data that is subject to the provisions of FERPA only when candidates have provided the necessary permissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§415. Data Verification, Appeals, and Waivers

A. A data verification process and procedures for appeals and waivers shall be used to correct inaccurate quality rating data and address unforeseen and aberrant factors affecting teacher preparation providers.

1. The LDE shall establish a data verification process for preparation providers to correct inaccurate quality rating data. The LDE shall provide a period (or periods) of not less than 15 calendar days for final review, correction, and verification of accountability data. All data correction must occur during the designated data verification period. Each preparation provider must collect documentation for every data element that is submitted for correction and maintain documentation on file for at least four years. The LDE shall review all data corrections during the verification period and grant approval of those proven valid. The LDE may request documentation to support the validity of the corrections.

2. An appeal is a request for the calculation or recalculation of the quality rating or any component score. The appeal procedure is created to address issues when the literal application of program accountability or program renewal policy does not consider certain unforeseen and unusual circumstances. Appeals shall not be available for failure to correct data during the data verification process.

3. A waiver is a temporary withholding of accountability decisions or required components of the quality rating system for no more than one accountability year. The waiver procedure is created to address issues when the literal application of program accountability or program renewal policy does not consider certain unforeseen circumstances. Waivers shall be denied to aggrieved parties attempting to subvert the intent of provisions outlined in federal or state law or policy.

4. The procedure for appeals and waivers is as follows.

a. A preparation provider may request an appeal/waiver by submitting a written request to the state superintendent of education within 15 calendar days of the LDE's release of the preparation provider's performance profile.

b. All appeal/waiver requests must clearly state the specific reasons for requesting the appeal/waiver and the reasons why the appeal/waiver should be granted and must include any necessary supporting documentation.

c. Supporting documentation for appeal/waiver requests should clearly outline the unforeseen and unusual factors that generate the request. The preparation provider shall be responsible for supplying the LDE with information necessary for recalculating accountability components per applicable policy.

d. Data corrections shall not be the grounds for an appeal/waiver, as all data corrections shall be made prior to release of performance profiles regardless of the source of any errors.

e. The LDE shall review all timely submitted appeal/waiver requests and, if the request meets guidelines described in this section, make recommendations to BESE following the close of the appeal/waiver period. Within this interval, the LDE shall notify preparation providers of its

recommendations and allow the provider to respond in writing. The preparation provider shall be notified of the recommendation and allowed to respond in writing. The LDE's recommendations and preparation provider's responses will be forwarded to BESE for final disposition, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Chapter 5. State Approval for Non-University Private Provider Teacher and/or Educational Leader Preparation Programs

§501. Process/Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

§503. Preliminary Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

§505. Evaluation Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

§507. Board Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

§509. Board Denial

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), repealed LR 43:

Chapter 7. Louisiana State Standards for Educator Preparation Programs

Subchapter A. Traditional Teacher Preparation Programs

§703. Overview

A. The following are deadline dates for approved traditional teacher preparation programs that meet requirements described in this Subchapter:

1. by no later than August 31, 2022—last date for candidates enrolled in traditional teacher preparation programs approved prior to October 1, 2016 to complete those programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1318 (July 2017), amended LR 43:

Subchapter B. Alternate Teacher Preparation Programs §731. Introduction

A. The following are deadline dates for approved alternate teacher preparation programs that meet requirements described in this Subchapter:

1. by no later than August 31, 2021—last date for candidates enrolled in approved alternate teacher preparation programs that were approved prior to October 1, 2016 to complete programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1325 (July 2017), amended, LR 43:

Subchapter C. Teacher Preparation Programs: Adopted October 2016

§741. Introduction

A. ...

B. Current approved preparation providers must demonstrate alignment of approved traditional and alternate programs to the program requirements described in this subchapter and be approved by BESE before July 1, 2018. Providers shall seek approval by submitting assurances or, if seeking to offer an innovative model as described in §743 of this bulletin, by submitting an innovative design application. The LDE shall publish the assurances and the innovative design application on the LDE website in fall 2017.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 36:2261, 2263 (October 2010), LR 37:549, 558 (February 2011), LR 37:3208 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014), LR 41:644 (April 2015), LR 41:1269 (July 2015), LR 43:

§743. Minimum Requirements for Traditional Teacher Preparation Programs

A. - C.2. ...

3. A one-year out-of-state residency placement in a school in a classroom with a teacher of record who holds a valid certificate in the area for which the candidate is pursuing certification may be permitted when the teacher preparation program is approved to operate in the state in which the residency will take place. An out-of-state residency placement must be indicated by the teacher preparation program with the application for the resident teacher certificate.

a. Beginning July 1, 2018, candidates must hold a valid resident teacher certificate in order to be placed in a one-year residency.

b. For certification in B-K, PK-3, 1-5, or 1-5 integrated to merged, candidates must spend a minimum of 80 percent of the residency school site's instructional time each week engaged in residency activities.

c. For certification in K-12, 4-8, 6-12, 4-8 integrated to merged or 6-12 integrated to merged, candidates must spend a minimum of 60 percent of the residency school site's instructional time each week in the first semester and 80 percent of the residency school site's instructional time each week in the second semester engaged in residency activities.

d. Teacher preparation providers may seek approval to offer an innovative residency model that does not meet the minimum instructional time requirements but meets a specific workforce need and includes high-quality clinical experiences throughout the program and intensive clinical experiences throughout the residency year.

4. The residency shall include a combination of the following experiences:

a. instructional goal-setting and planning, including individual education plan (IEP) and individual accommodations plan (IAP) review and implementation;

b. classroom teaching;

c. analysis of student assessment results, including formative and summative assessment data, student work samples, and observations of student class discussions;

d. parent-teacher conferences and communication; and

e. interactions and collaboration with other teachers.

5. The teacher candidate shall be supervised in all residency experiences by a team comprised of a school-based mentor teacher, the residency school site principal or designee, and program faculty member. The supervision shall include, at minimum, two formal observations of teaching practice per semester, which shall include feedback on performance and analysis of formative and summative student achievement results and candidate performance data. Observations may be conducted by any member of the supervision team.

6. Candidates may complete clinical experiences through general education or content courses that integrate content, pedagogy, and practice.

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 36:2261, 2263 (October 2010), LR 37:549, 558 (February 2011), LR 37:3208 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014), LR 41:644 (April 2015), LR 41:1269 (July 2015), LR 43:

§745. Minimum Requirements for Alternate Teacher Preparation Programs

A. - D.2.e. ...

3. Requests for a one-year out-of-state residency placement may be permitted when the teacher preparation program is approved to operate in the state that the residency will occur. Such requests must be submitted by the teacher preparation program with the application for the resident teacher certificate or prior to the candidate beginning a residency as a teacher of record out-of-state.

4. The teacher candidate shall be supervised in all residency experiences by a team comprised of a school-based mentor teacher, the residency school site principal or designee, and program faculty member.

a. The supervision shall include, at minimum, two formal observations of teaching practice per semester, which shall include feedback on performance and analysis of formative and summative student achievement results and candidate performance data. Observations may be conducted by any member of the supervision team.

5. Practitioner teacher programs shall require candidates to complete the residency as a teacher of record. Candidates must hold a valid practitioner teacher license pursuant to Bulletin 746.

6. Master's degree or certification-only alternate programs shall allow candidates to complete the residency as a teacher of record or in a classroom under a teacher of record.

D.5.a. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 36:2261, 2263 (October 2010), LR 37:549, 558 (February 2011), LR 37:3208 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014), LR 41:644 (April 2015), LR 41:1269 (July 2015), LR 43:

Chapter 11. Teacher Preparation Program Accountability

§1101. Programmatic Intervention [Formerly §501]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:754 (April 2010), amended LR 37:565 (February 2011), repealed LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., October 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes provide for the initial and ongoing review and approval of teacher preparation programs for both public and non-public providers to be implemented over the next five years with the first ongoing approval decisions made in 2023. No later than July 1, 2018 teacher preparation programs shall demonstrate alignment to the standards contained in this bulletin, as revised and approved by BESE in October 2016.

There will be costs for the Department of Education (LDE), as well as public Universities (Providers) to implement the proposed revisions. Cost increases for the LDE result from staffing needs to produce and publish the performance profiles containing quality ratings and informational metrics; implementation of the on-site review process; and staffing and operating expenses of the Louisiana Educator Preparation Research Consortium. There may be workload adjustments for public universities associated with the on-site reviews, data collection, and reporting activities, as well as costs associated with interventions imposed under the required corrective action plan for Providers which fail to achieve and maintain mandatory ratings under the Teacher Preparation Quality Rating System (QRS). Future costs may decrease to the extent Providers' QRS scores qualify them for a longer approval cycle, reducing the frequency of on-site reviews, and a streamlined reporting structure reduces workload needs of the universities. Board of Regents (BOR) costs will increase due to the shift of costs associated with the Council for the Accreditation of Educator Preparation (CAEP) from the LDE to the BOR. Total costs are indeterminable at this time and will be funded with a mix of state, federal, and self-generated funding subject to availability.

Onsite Review

The LDE will fund the cost of the external review teams to conduct the on-site visits and reviews of the teacher preparation Providers. Currently, there are 27 Providers approved by BESE which offer programs that will require initial licensure, (a total of 38 institution or pathway level ratings). Each teacher preparation Provider will be required to participate in a biannual review in 2018-2020 (the pilot phase) and in 2020-2022 (the initial two-year renewal cycle). Beginning in 2022-2023, those teacher preparation Providers that receive an effective rating of Level 3 or higher per the 2020-2022 QRS will only be required to participate in an on-site review every four years. The cost of the on-site review ranges from \$38,000 to \$56,000 depending upon institutional size. Reviews will be conducted by LDE in both years of the two-year cycle. The frequency of future reviews may be reduced to the extent Providers achieve and maintain a Level 3 rating. The projected cost of the onsite reviews total \$574,000 for year one in FY18 (13 reviews) and \$612,000 for year two in FY19 (14 reviews). The LDE has received funding from the Baton Rouge Area Foundation in the amount of \$800,000 to support implementation costs for FY18 through FY19. The LDE will issue an RFP seeking a contractor to conduct future evaluations beginning in FY20, the cost of which cannot be determined at this time. Additional costs to use the on-site framework developed with the current vendor may also be incurred at a

projected \$25,000 annual fee. Future costs may decrease to the extent the frequency of the evaluations is reduced. However, baseline projections of existing programs indicate most Providers will need to make modest to significant improvements in order to achieve the Level 3 rating required to move to a four-year approval cycle.

Public Universities may incur costs during the pilot phase and beyond for program improvements designed to raise their quality rating scores. Furthermore, there will likely be costs associated with the onsite review, including preparing for the visit and staff time during the visit. However, the BOR has indicated it will work to streamline data collection efforts required by multiple accrediting bodies, which could serve to reduce future workload and potential staffing needs of the institutions.

Finally, with the move to the onsite review, BESE will no longer require teacher preparation programs to maintain national accreditation or undergo site visits through the Council for the Accreditation of Educator Preparation (CAEP) for continued program approval. However, Provider approval will still require evidence of regional accreditation status for universities and CAEP certification will still be required by the BOR for public institutions. The LDE will transfer the partnership agreement with CAEP to BOR resulting in a decrease in costs associated with CAEP membership to the LDE of approximately \$16,000 annually and a commensurate increase in costs to the Board of Regents for public universities beginning in FY19. The FY18 costs will be shared by the LDE and BOR.

Performance Profiles with Quality Ratings

Beginning Winter 2019, the LDE will publish an annual performance profile for each teacher preparation Provider. The LDE will allocate half of a position (.5 FTE) to work with other staff and Providers to manage data collections, analytics, and production and publication of the performance profiles; the annual cost of the position is estimated at \$50,000 (\$35,000 salary plus related benefits).

Louisiana Educator Research Consortium

The 2017-2018 academic year shall be a research phase for the QRS. Evaluation tools, including the framework for the on-site review shall be developed and reviewed by experts from within the higher education and K-12 communities. There may be costs associated with establishing this Research Consortium for the LDE, BOR, and other participants' appointing authority which will likely be incurred for up to three years, beginning in the 2017-2018 academic year; these costs are indeterminable at this time.

Program Renewals

For continued state approval Providers must maintain effective ratings on the Teacher Preparation Quality Rating System. Providers which do not maintain a quality rating of Level 3 or higher shall undergo a corrective action period during which the Provider must develop an improvement plan which contains specified improvement goals, timelines, and measures of success. BESE sanctions may require the Provider to enact certain improvements for one or more pathways or programs. The costs of such improvements are indeterminable and will vary depending upon the type and duration of improvements and the available resources of the Provider.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Providers which do not maintain a quality rating of Level 3 or higher (per the Quality Rating System) will undergo a corrective action period during which the provider develops an improvement plan which contains specified goals, timelines, and measures of success. In addition to program improvements, BESE may impose sanctions which include but are not limited to: designation as a Low Performing or At Risk of Low Performance per the federal Higher Education Act; limited or

discontinued enrollment; and discontinued ability to recommend candidates for certification. In addition to the potential cost implications of such interventions, these actions could serve to negatively impact universities' ability to enroll teacher candidates which would reduce tuition and fee revenues for those institutions.

The proposed revisions allow for BESE to rescind program approval for those programs found to be operating outside of the program requirements. This could also have implications for continued enrollment and tuition revenues. Furthermore, the Southern Association of Colleges and Schools (SACS) accreditation requires institutions to provide teach-out provision for those students impacted by such a program closure. There would be associated cost increases for universities under such a scenario.

Under the federal Every Student Succeeds Act (ESSA) programs from which the state has withdrawn approval or terminated financial support shall be ineligible for certain funds and may not be permitted to enroll students who receive aid under Title IV.

Alternatively, Providers which receive and maintain higher quality ratings, Level 4 Highly Effective, could experience growth in enrollment and subsequent increase in tuition and fee revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Non-public University Providers and Alternative Providers (non Institutions of Higher Education), which offer teacher education programs may experience increases in costs similar to those of public Universities associated with program review and approval as well as the Teacher Preparation Quality Rating System. Additionally, Non-public University Providers and Alternative Providers may experience a decrease in costs if they choose to discontinue their membership with CAEP. CAEP membership and national accreditation is no longer required by BESE for continued program approval of teacher preparation programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Under the QRS, scores are calculated based on the Providers' ability to meet workforce needs, defined as teacher candidate placement in high need schools (high percentage of minority or economically disadvantaged or schools less geographically proximate to Providers) or high need certification areas (taught by uncertified or out-of-field teachers or historically underserved by teacher preparation programs). This could serve to impact students enrolling in teacher education programs both in terms of selection of degree programs as well as placement for the one-year teaching residency in local public school districts.

Beth Scioneaux
Deputy Superintendent
1709#031

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1508—Pupil Appraisal Handbook
(LAC 28:CI.703, 709, 725, and 1101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 1508—Pupil Appraisal Handbook*: §703, Deaf-Blindness; §709, Deaf

and/or Hard of Hearing; §725, Visual Impairment; and §1101, Required Reevaluations. The proposed revisions align policy with laws recently enacted by the Louisiana Legislature.

**Title 28
EDUCATION**

Part CI. Bulletin 1508—Pupil Appraisal Handbook

Chapter 7. Disabilities

§703. Deaf-Blindness

A. - B.2.a. ...

3. Educational Need

a. Educational determination that the student's combined vision and hearing losses are such that he/she cannot be served appropriately solely by the special education program for either visual impairments or deafness and/or a hearing loss.

C. - D.3. ...

4. the educational assessment conducted should verify that the student's combined vision and auditory losses are such that he/she cannot be served appropriately by a program for students with visual or deafness and/or a hearing loss.

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:905 (May 2009), effective July 1, 2009, amended LR 43:

§709. Deaf and/or Hard of Hearing

A. Definition. *Deaf and/or Hard of Hearing*—a loss of hearing, whether permanent or fluctuating, that adversely affects a student's educational performance. It includes *deafness*, which is a hearing disability that is so severe that the student is disabled in processing linguistic information through hearing, with or without amplification.

A.1. - C. ...

D. Additional procedures for evaluation:

1. ...

2. an assessment of the student's hearing sensitivity, acuity, with and without amplification shall be conducted by a physician with specialized training or experience in the diagnosis and treatment of a hearing loss and/or a licensed audiologist;

3. - 3.d. ...

4. the statewide assessment center for students who are deaf and/ or hard of hearing may be used as a resource to conduct the evaluation;

D.5. - E.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:908 (May 2009), effective July 1, 2009, amended LR 43:

§725. Visual Impairment

A. Definition. *Visual Impairment* (including *Blindness*)—an impairment in vision that even with corrections adversely affects a student's educational performance. The term includes both partial sight and blindness.

1. If a student has the two disabilities of deafness and blindness, the student must be classified as having deaf-blindness and not developmental delay or multiple

disabilities. The LEA shall notify state deaf-blind census of all students who have both visual and hearing disabilities

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:914 (May 2009), effective July 1, 2009, amended LR 43:

Chapter 11. Reevaluation Information

§1101. Required Reevaluations

A. - C.1.a. ...

b. a triennial evaluation may be necessary for students with developmental delays, deafness and/or a hearing loss, traumatic brain injury, or visual impairments. Refer to the specific disabilities in Chapter 7 for further guidance;

C.1.c. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:916 (May 2009), effective July 1, 2009, amended LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., October 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 1508—Pupil**

Appraisal Handbook

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact to costs or saving for state or local governmental units. The proposed policy revises terminology referring to the deaf and hard-of-hearing community pursuant to Act 146 of 2017.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1709#025

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.113, 460, 530, and 905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*: §113, Routine Checking of Hearing Aids and External Components of Surgically Implanted Medical Devices; §460, Purpose and Jurisdiction; §530, Authority of School Personnel; and §905, Definitions. The proposed revisions align policy with laws recently enacted by the Louisiana Legislature.

Title 28

EDUCATION

Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

Subpart 1. Students with Disabilities

Chapter 1. State Eligibility

Subchapter A. FAPE Requirements

§113. Routine Checking of Hearing Aids and External Components of Surgically Implanted Medical Devices

A. Hearing Aids. Each public agency shall ensure that hearing aids worn in school by students are functioning properly.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2039 (October 2008), amended LR 43:

Chapter 4. Special School District (SSD) and BESE Special Schools (BSS)

Subchapter B. BESE Special Schools

§460. Purpose and Jurisdiction

A. BESE special schools are designated to provide FAPE for students who have been evaluated and classified as having low-incidence impairments, including but not limited to deafness and/or hearing loss, visual impairments, or orthopedic impairments, that meet the criteria for admission for each such special school.

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2066 (October 2008), amended LR 43:

Chapter 5. Procedural Safeguards
Subchapter B. Discipline Procedures for Students with Disabilities

§530. Authority of School Personnel

A. - B.2. ...

3. No form of corporal punishment shall be administered to a student with an exceptionality, excluding students identified as gifted and talented, as defined in R.S. 17:1942 or to a student who has been determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.

4. Corporal punishment means using physical force to discipline a student, with or without an object, and includes hitting, paddling, striking, spanking, slapping, or any other physical force that causes pain or physical discomfort.

5. Corporal punishment does not include:

a. the use of reasonable and necessary physical restraint of a student to protect the student, or others, from bodily harm or to obtain possession of a weapon or other dangerous object from a student;

b. the use of seclusion and restraint as provided in R.S. 17:416.21.

C. - I.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2076 (October 2008), amended LR 43:

Chapter 9. General
Subchapter B. Definitions used in these Regulations

§905. Definitions

Adapted Physical Education—specially designed physical education for eligible students with disabilities.

Hearing Impairment—Repealed.

Student with a Disability—

1. General

a. *Student with a Disability*—a student evaluated in accordance with §§305 through 312 of these regulations and determined as having an intellectual disability, a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in these regulations as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, hearing disabilities, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

1.b.i. - 3.b. ...

c. *Deafness*—a hearing loss that is so severe that the student is disabled in processing linguistic information through hearing, with or without amplification that adversely affects a student’s educational performance.

d. - d.ii. ...

e. *Hard of Hearing*—a loss of hearing, whether permanent or fluctuating, that adversely affects a student’s educational performance but that is not included under the definition of *deafness* in Subparagraph 1.c above.

f. - m. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2089 (October 2008), amended LR 36:1505 (July 2010), LR 38:2368 (September 2012), LR 42:235 (February 2016), LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., October 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact to costs or savings for state or local governmental units. The proposed policy revises terminology referring to the deaf and hard-of-hearing community pursuant to Act 146 of 2017 and prohibits the use of corporal punishment in public elementary and secondary schools for certain students with exceptionalities pursuant to Act 266 of 2017.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1709#026

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Certified Public Accountants

Certified Public Accountants
(LAC 46:XIX.1503)

Editor's Note: Section 1503 of this Notice of Intent is being repromulgated to correct a citation error. The original Notice of Intent may be viewed in its entirety on pages 1435-1447 of the July 20, 2017 *Louisiana Register*.

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the State Board of Certified Public Accountants of Louisiana (board) by the Louisiana Accountancy Act, R.S. 37:71 et seq., the board intends to amend its Rules governing certified public accountants (CPAs) Chapters 3-19, to conform them to Act 553 of the 2016 Regular Session of the Louisiana Legislature and to update the rules generally as made necessary by the passage of time and for consistency with current board practices. The proposed changes: remove the 150 semester hour requirement to sit for the CPA exam but maintain the requirement as a condition of licensure (§503); establish a minimum age for licensure as a CPA at 18 years of age (§901); and add a "CPA-retired" status category (§1105). While fees are not being increased at this time over current levels, the proposed changes include a list of maximum fees, unchanged since 2000, for board services so that rates may be increased gradually by the board as needed over the years (§319). An increase in board member compensation, which has remained the same since 1980, is also among the proposed changes (§311). In conformity with Act 188 of the 2013 Regular Session of the Louisiana Legislature, the proposed changes also provide that practical experience be verified rather than supervised by a licensed CPA (§903). Among other items, the proposed rule changes also: modify educational provisions and delivery methods (§503); incorporate the Uniform Accountancy Act Model rules regarding testing (§505); define and include acceptable military service experience (§903); modify language providing for recognition of foreign credential equivalency and reporting disciplinary action (§1103); clarify that eight hours of CPE in accounting and auditing during a calendar year is required when a CPA participates in attest engagements (§1301); and adopt and include compliance with the American Institute of Certified Public Accountants' Code of Professional Conduct (§1700). Finally, the proposed changes clarify or remove outdated language, incorporate corresponding standards of other states and national regulatory authorities for CPAs; renumber various provisions; delete wording or references no longer applicable or redundant from various Sections and provisions; remove gender references; and include other changes made necessary by the passage of time and for consistency with current board practices. The proposed changes are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XIX. Certified Public Accountants

Chapter 15. Firm Permits to Practice; Attest Experience; Peer Review

§1503. Peer Review and Practice Monitoring Programs

A. The board hereby requires firms that provide attest services, excluding engagements subject to a permanent inspection program of the Public Company Accounting Oversight Board, to participate in an approved peer review program enumerated in R.S. 37:77(G)(2)(a)(i), (ii), and (iii), and comply with the applicable requirements of that program. The purpose of this requirement is to improve the quality of financial reporting and to assure that the public can rely on the fairness of presentation of financial information on which CPA firms issue reports.

1. - 3.c. ...

4. Peer review reports shall be made available to the board after a review's acceptance date by the administering entity or its peer review committee. "Acceptance" shall be as described in the AICPA Peer Review Standards and its interpretations. Timely completion of peer reviews and submission of, or making available reports, in the manner and periods required under this Section, are conditions of holding a valid permit.

a. ...

b. For reviews administered by another board approved administering entity or sponsoring organization, such as, a state society of CPAs, National Peer Review Committee, or state board of accountancy program with standards substantially equivalent to the AICPA's standards, peer review reports shall be submitted to the board by the firm directly or made available or submitted to the board by the sponsoring organization or administering entity by making them available on a secure website or other secure means. Such reports must be submitted or made available within 45 days of the acceptance date.

5. The reviewed firm must retain any or all of the documents related to the peer review in accordance with AICPA peer review standards. Upon request of the board, the reviewed firm shall timely submit such documentation to the board.

6. The objective of this reporting rule is primarily to reinforce the board's efforts to ensure that only appropriately qualified CPA firms are engaged in the offering and rendering of attest services subject to peer review.

7. For good cause shown, the board may grant or renew permits for a reasonable period of time pending the completion of a peer review or the submission of a report thereon.

B. - E.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1071 (November 1991), amended LR 23:1125 (September 1997), LR 26:1981 (September 2000), LR 35:236 (February 2009), LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not

anticipated that the proposed amendments will have an adverse impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below 100 percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Small Business Analysis

The proposed amendments are not anticipated to have an adverse impact on small businesses as defined in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Darla M. Saux, CPA, CGMA, Executive Director, State Board of Certified Public Accountants of Louisiana, 601 Poydras Street, Suite 1770, New Orleans, LA 70130, (504) 566-1244. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., August 21, 2017.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on August 28, 2017, at 9 a.m. at the office of the State Board of Certified Public Accountants of Louisiana, 601 Poydras Street, Suite 1770, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Darla M. Saux, CPA, CGMA
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Certified Public Accountants

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The State Board of Certified Public Accountants (Board) will incur expenses due to the proposed rule change. Other than one-time costs for notice and rule publication, the proposed rule also includes a \$100 per month increase in Board member compensation for the seven Board members over current levels, in place since 1980. The proposed change would allow officers to receive \$250 per month and other members \$200 per month,

resulting in an estimated annual increase of \$8,400. The Board also anticipates devoting some administrative resources to reviewing college transcripts for education hours earned during the period between application to sit for the Certified Public Accountant (CPA) exam and application to become licensed, but believes any additional costs can be absorbed with existing resources.

The proposed changes are primarily being made to conform the Board's rules to the Louisiana Accountancy Act, as amended by Act 553 of the 2016 Session of the Legislature. The proposed changes: remove the 150 semester hour requirement to sit for the CPA exam but maintain the requirement as a condition of licensure; establish a minimum age for licensure as a CPA at 18 years of age; add a "CPA-Retired" status category; provide for an increase in Board member compensation and a maximum range of fees which could subsequently be assessed for Board services. In accordance with Act 188 of the 2013 Regular Session of the Louisiana Legislature, the proposed changes provide that practical experience be verified rather than supervised by a licensed CPA. Among other items, the proposed changes: modify educational provisions and delivery methods; incorporate the Uniform Accountancy Act Model rules regarding testing; modify language providing for recognition of foreign credential equivalency and reporting disciplinary action; define and include acceptable military service experience; clarify the provision that 8 hours of continuing professional education in Accounting and Auditing during a calendar year is required when a CPA participates in attest engagements; adopt and include compliance with the American Institute of Certified Public Accountants' Code of Professional Conduct; clarify and remove outdated language; incorporate corresponding standards of other states and national regulatory authorities for CPAs; and include other changes made necessary by the passage of time and for consistency with current Board practices.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections for the State Board of CPAs will increase in the future. The proposed maximum fees are established within the limits established by Act 553 (319A), however no fees are being increased at this time over current levels. The maximum fee schedule in Act 553 is not intended to be fully adopted or realized for many years; rather, proposed fee rates will be considered and adopted by the Board so that rates may be increased gradually as needed over the years until the maximum level is reached. Over time, the proposed maximum changes could increase revenue collections over current collections by \$487,885 (e.g., active licensees and applicants (\$199,275); inactive and retired applicants (\$50,000); firm permits (\$220,740); and delinquent applications (\$17,870) = \$487,885).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons seeking to enter the CPA profession, and individuals in the CPA profession will be affected by the proposed rule change. Individuals seeking to become a CPA will likely benefit from being able to sit for the CPA exam before completing the required education to become licensed and the changes relating to verification rather than supervision of practical experience. Licensees will also benefit from the establishment of a CPA-Retired category. The actual cost or economic benefit of these changes, which resulted from implementation of changes to the Louisiana Accountancy Act by Acts 553 and 188, is unknown. Individual CPAs, CPA firms and employers of CPAs would be directly affected by any subsequent increase in license and permit fees within the range permitted by Act 553 and the proposed changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Darla M. Saux, CPA, CGMA
Executive Director
1709#012

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Cosmetology

Cosmetologists

(LAC 46:XXXI.Chapters 3, 5, 7, 9, 11, 12, and 17)

The Louisiana State Board of Cosmetology, under authority of the Louisiana Cosmetology Act, R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend certain rules regarding course requirements, examination of applicants, reporting student hours, transfer students, cosmetology schools, manicuring salons, pedicuring, alternative hair design, shampoo assistants and picture identification; to enact rules regarding blow-dry technicians, mobile salons and threading and to repeal rules regarding special permits for make-up application.

The revisions are necessary to update the rules and to enact rules to implement R.S. 37:575(17)(a) and R.S. 37:591.1 enacted by Act 611 (2016).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXI. Cosmetologists

Chapter 3. Schools and Students

§301. Cosmetology Course Requirements

- A. - A.1.f. ...
 - g. hair removal by cosmetic preparations, threading, waxing or other similar means;
- 2. - 2.d. ...
 - e. esthetics;
 - f. ...
 - g. manicuring and pedicuring;
- 3. - 3.d. ...
- 4. hair designing and styling;
 - a. - b. ...
 - c. alternative hair design/braiding;
- 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:326 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§303. Esthetics Course Requirements

- A. - A.2.g. ...
 - h. hair removal by cosmetic preparations, threading, waxing or other similar means;
- 2.i. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR

29:326 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§308. Blow-Dry Technician Course Requirements

A. Curriculum. The blow dry technician curriculum shall consist of:

1. at least 500 hours of theory instruction including but not be limited to the following:
 - a. scientific concepts;
 - b. infection control:
 - i. safety;
 - ii. sanitation;
 - iii. electricity;
 - c. OSHA requirements;
 - d. human physiology;
 - e. hazards to hair and scalp;
2. at least 500 hours of clinical instruction during which the student shall perform the following services:
 - a. cleaning hair;
 - b. arranging, curling, dressing and other similar procedures with the use of a blow dryer;
3. Louisiana Cosmetology Act and rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(17)(a).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 43:

§309. Examination of Applicants

- A. - A.4. ...
5. persons holding a cosmetology, esthetics, manicuring or instructor license issued by another state;
 6. persons holding a cosmetology, esthetics, manicuring or instructor license issued by another country who have received board approval; and
 7. blow-dry technician students who have completed 1000 hours of the blow-dry technician curriculum.
- B. Applications. Applications for examinations must be accompanied by a student registration certificate, cumulative hours' report, a color photograph of the student, the \$25 initial license fee, and all applicable examination fees.

C. - C.1. ...

2. All requirements must be met prior to applying for the national theory and practical examinations.

3. Any applicant who attended a school unable to issue a certification due to temporary closure does not provide the certification required by this section prior to issuance of a certificate of registration or a license, shall provide the certification required by this subsection prior to renewing the certificate of registration or license, if the cosmetology school from which they graduated is able to issue the certification prior to renewal of the certificate of registration or license.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(4) and R.S. 37:586.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:834 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§310. Ineligibility for Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 37:1150 (April 2011), repealed by the Office of the Governor, Board of Cosmetology, LR 43:

§311. Reporting Student Hours

A. Registration. Schools shall register students with the board by submitting an accurate and completed registration application as well as the required supporting documentation within 60 days after the students start school. The maximum number of hours which will be accepted by the board at the time of registration is the number of hours earned within 60 days preceding registration.

B. Hours. Schools must register each student's hours with the board no later than on the tenth of the month for hours earned by each enrolled student in the prior month. Any student who did not earn any hours during the month shall be included on the report and the number of hours earned shall be reported as zero.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(4) and R.S. 37:586.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:835 (May 2006), LR 33:1628 (August 2007), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§313. Transfer Students

A. Out-of-State. The board will accept student transfer hours certified by the board supervising the out-of-state or if supervising board does not register student hours from the school provided that the hours are transferred to a Louisiana school and were earned within the preceding three years. Certifications of hours must be mailed to the board from the appropriate entity. The Louisiana school shall evaluate the student's transcript and determine how many hours of the curriculum have been completed by the student. The school shall submit to the board a verification of the number of transferable hours which shall include supporting data.

B. - B.1. ...

2. certification of payment of contractual fees owed to the former school, unless the former school is unable to certify payment of contractual fees owed due to temporary or permanent closure or loss of records;

B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598(A)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:834 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§315. Responsibilities of Schools

A. Enrollment. Upon initial enrollment of a student, the school must provide the following to the board:

1. - 3. ...

a. for non-postsecondary cosmetology schools proof of completion of education equal to the tenth grade; or any documentation listed in Subparagraph b of this Paragraph:

b. for postsecondary schools:

- i. proof of a high school diploma from an approved high school;
- ii. general equivalency diploma; or

iii. education equivalent of a diploma from an approved high school;

4. a color photograph of the student;
5. the student registration fee; and
6. copy of Social Security card.

B. - D. ...

E. Faculty. All schools must maintain a faculty of at least one instructor per every 20 students enrolled. Each faculty shall include at least 2 instructors, who are teachers registered by the board, at least 1 of whom shall have been a registered teacher and in active practice for at least 18 months. The school shall be supervised by a registered teacher of cosmetology in active practice, with at least 24 months of teaching experience in an accredited school of cosmetology approved by the board. The senior instructor shall supervise all other faculty members. An instructor roster must be submitted on a quarterly basis.

F. - L. ...

M. Hours. Schools must adopt a policy for the recordation of student hours and shall verify that all equipment used in the process is in working order. Each school shall post a monthly summary of hours earned by each student.

N. ...

O. Dropped Students. Schools shall provide to the board a completed notice of termination form, a contractual fee form indicating either a payment or nonpayment and the student's registration within 30 days of the student's termination date for each student who is no longer enrolled at the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:595.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

Chapter 5. Licensees

§502. Managers

A. For purposes of R.S. 37:589 a shop owner or mobile salon owner shall be required to employ a manager, if absent from his shop more than two days per week who shall be a registered cosmetologist and who shall obtain a certificate of registration as a manager. However, a registered manicurist may manage a manicuring salon, and a registered esthetician may manage an esthetics salon. A registered manager shall be present at the salon during all hours of operation and shall be responsible for ensuring that all persons practicing within the facility are appropriately licensed and follow all applicable laws and rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 32:835 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§503. School Licenses Issued to Legal Entities

A. - A.1. ...

2. a financial statement which includes a profit and loss statement, balance sheet and three-year forecast;

A.3. - B ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR

29:329 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§507. Blow-Dry Technicians

A. The board shall issue a blow-dry technician license to any individual who completes the blow-drying hair services course in a licensed school, successfully passes the examinations required by the board and pays the applicable license fee.

B. Blow-dry technician licenses shall be renewed annually on or before the licensee's birthday. The license shall expire 30 days following the licensee's date of birth if not timely renewed.

C. Blow-drying hair services shall be performed only at licensed cosmetology salons.

D. Blow-dry technicians shall perform blow-drying hair services in areas or stations clearly designated for blow-drying hair services only. Such stations or areas shall not have equipment for performing cosmetology services other than blow-drying hair services.

E. Blow-drying technicians shall work all times under the supervision of a licensed cosmetologist who shall be responsible for ensuring that only blow-drying hair services are performed by the blow-dry technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(17)(a).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 43:

Chapter 7. Safety and Sanitation Requirements

§709. Equipment Required in Salons Offering Manicuring Services

A. - A.7. ...

B. Manicuring salons shall not have on-the-premises equipment listed in §707.B.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003), amended LR 32:835 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§713. Procedures for Manicuring and Pedicuring Services

A. All manicurists and cosmetologists performing manicuring or pedicuring services shall:

1. wash his or her hands using antimicrobial wash prior to performing any manicuring or pedicuring service;

2. - 3. ...

4. wash all towels and linens in disinfecting detergent;

5. place all used disposable items in a closed, bagged, trash container; and

6. sanitize pedicuring tub after each service in accordance with the manufacturer's instructions or in a manner consistent with recommended procedures necessary to prevent infection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended LR 32:835 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 43:

Chapter 9. Inspections

§901. Access of Inspectors

A. Access. Inspectors and employees of the board are entitled to enter any premises or mobile salon licensed by the board, to interview any person present at the facility and

to examine all work records pertaining to the cosmetology profession during the regular business hours of the facility.

B. Information. Any proprietary information gained by an inspector or employee of the board during an inspection shall remain confidential unless the information is to be offered as evidence in an administrative hearing or court proceeding concerning a license issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(10).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§903. Violations

A. ...

B. Violation Notice. Inspectors must present the licensee with a duplicate copy of the violation notice.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

Chapter 11. Special and Temporary Permits

§1101. Special Permits

A. - A.3. ...

4. threading.

B. All special permits issued by the board shall be valid for a period of one year. Alternative hair design and make-up permits issued prior to December 31, 2016, shall be renewable annually upon payment of the applicable permit fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§1105. Special Permit for Alternative Hair Design

A. Alternative Hair Design. Individuals with special permits for alternative hair design shall be authorized to provide alternative hair design services only in facilities licensed by the board as cosmetology salons.

B. Notwithstanding the provisions of Subsection A, any person who applies for a special permit to practice alternative hair design who, has been issued an alternative hair design permit in another state and satisfactorily demonstrates two years of experience in the practice of alternative hair design shall be issued a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:2781 (December 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§1109. Special Permit for Shampoo Assistants

A. Shampoo Assistants. A special permit authorizing the performance of shampooing shall be issued to any person who successfully completed at least 40 hours of training in shampooing, draping and rinsing at a cosmetology school approved by the board.

B. A special permit authorizing the salon owner or manager to train individuals who work in the salon, as

shampoo assistants if the salon owner or manager has completed at least 40 hours of training in shampooing. No individual enrolled in a cosmetology school shall work as a shampoo assistant.

C. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:2781 (December 2003), LR 32:835 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§1110. Special Permits for Threading

A. Definitions

Threader—a person who engages in the practice of threading for compensation, directly or indirectly, including tips.

Threading—the practice of using a thread to remove facial hair but does not include hair removal by any other means or any other practice within the definition of esthetics.

Threading Facility—any premises upon or within which threading is practiced for compensation, directly or indirectly, including tips.

B. Qualifications for Permit as a Threader

1. In order to receive a permit as a registered threader, a person shall meet all of the following requirements:

a. be at least 16 years of age;

b. have equivalent training as would be contemplated in the satisfactory completion of the tenth grade from an approved high school;

c. annually complete the board's required training on sanitation.

C. A threading facility owner, who is not a licensed cosmetologist or an esthetician or permitted as a threader, shall employ one or more registered managers who shall be licensed as cosmetologists or estheticians or permitted as a threader. A registered manager shall be present at the facility during all hours of operation and shall be responsible for ensuring that all persons practicing threading within the facility are appropriately licensed and follow all applicable laws and rules and regulations. A threading facility owner who is absent from his respective facility more than two working days per week shall employ a manager, who shall be a registered cosmetologist or a permitted threader and who shall obtain a certificate of registration as a manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 43:

§1111. Special Permit for Make-Up Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003), amended LR 29:2782 (December 2003), LR 32:836 (May 2006), repealed by the Office of the Governor, Board of Cosmetology, LR 43:

Chapter 12. Mobile Salons

§1201. Mobile Salons

A. The operation of mobile cosmetology salons shall meet and at all times remain in compliance with all federal, state and local laws and ordinances regulating mobile

businesses in the areas in which the mobile salon operates, including all applicable requirements of the Americans with Disabilities Act and the occupational safety and health requirements. A ramp or lift shall be available for access to the mobile unit to provide services for disabled individuals.

B. Each mobile salon shall at all times comply with the requirements of chapter 6A of title 37 of the *Louisiana Revised Statutes* and all rules promulgated by the board applicable to cosmetology salons at fixed locations except to the extent any rule is in direct conflict with this rule.

C. The geographical boundaries within which the mobile salon is permitted to operate shall extend no further than a 50-mile radius from the designated storage locations and shall include only the cities and parishes within which the mobile unit has obtained permits to provide cosmetology services.

D. To facilitate inspections, every mobile salon shall:

1. Prior to the first of each month, each mobile salon license holder shall file with the board a written itinerary on the form required by the board for the month listing the dates, hours and location when the mobile salon will be operation. Said form shall be signed by the owner or manager and shall include the names of all individuals who will be performing services on each date.

2. The salon name, as it appears on the salon license, shall be in lettering at least 5 inches in height and shall be visibly displayed and clearly legible on at least two exterior sides of the mobile salon.

3. If a mobile salon is a registered motor vehicle, the vehicle's identification number shall be included on the mobile salon's application for licensure and shall also be listed on the mobile salon's monthly itinerary filed with the board.

4. Each mobile salon shall have a phone or other means of telecommunication by which the salon can be contacted by board personnel and customers. The salon's phone and a valid email address shall be included on the mobile salon's application for licensure and shall also be listed on the mobile salon's monthly itinerary.

5. Each mobile salon shall be operated only at the times and locations specified in its monthly itinerary filed with the board. Mobile salons shall operate only when the facility is parked and only at locations where the salon owner has obtained prior permission of the property owner and complies with all zoning restrictions. No cosmetology services shall be performed while the mobile salon is in motion.

6. Each mobile salon owner shall maintain a business address in Louisiana where the mobile salon and records of appointments, itineraries, license numbers of individuals performing cosmetology services, and vehicle identification numbers shall be kept and made available for inspection by board's staff and at which correspondence from the board can be received. Post office box addresses or private mail box addresses may not be used for these purposes.

a. Due to inherent problems of providing sufficient water and sewage services to mobile salons, the following requirements shall apply.

i. Each mobile salon shall be equipped with a functional restroom which includes a self-contained, flush chemical toilet with a holding tank and lavatory facilities with hot and cold running water.

ii. Each mobile salon shall have storage capacity for the greater of 100 gallons or 35 gallons of clean water for each cosmetologist working in the mobile salon and a total storage capacity for waste water equal to or greater than the mobile salon's total required capacity for clean water.

b. Operation of a mobile salon shall promptly cease:

i. when the mobile salon's clean water supply is depleted or so diminished that further cosmetology service cannot be completed;

ii. when the mobile salon's waste water storage capacity is reached;

iii. when the mobile salon's restroom needs to be emptied;

iv. operation of a mobile salon shall not resume until a sufficient amount of clean water and waste water capacity necessary for completing all cosmetology services undertaken and the restroom is functional is available;

v. disposal of sewage and waste water by mobile salons shall comply with all applicable federal, state and local laws and regulations.

c. All storage cabinet does shall have safety latches. All equipment which is not stored in stored in storage cabinets shall be securely anchored to the mobile unit.

d. At least one state fire marshal approved fire extinguisher shall be mounted in public view. Each mobile salon shall be equipped with properly maintained commercial exhaust fans or air filtration equipment compliant with local and state building codes.

e. Applicants for licensure of a mobile salon shall pay the fees applicable to salons at fixed locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1) and R.S. 37:591.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 43:

Chapter 17. Miscellaneous Provisions

§1705. Destruction of Premises

A. - B. ...

C. Temporary Premises. When temporary premises are necessary for the continuance of operation during the repair, the inspector for the area involved may approve such premises provided such premises are temporary with a specific termination date set forth for their use and further provided that such premises are sanitary and sufficient for use during the stated time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended LR 29:2782 (December 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§1707. Remodeling

A. Application. When any school, salon, or mobile salon desires to remodel, application shall be made to the board.

B. Temporary Premises. If remodeling requires the use of temporary premises for the continuance of operation during remodeling, the board member inspector for the area may approve such premises as are adequate provided such premises are sanitary and sufficient for use during the stated time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

§1709. Picture Identification

A. All licensees and permittees shall have in their possession a picture identification at any time at which a service is being performed.

B. Each licensee and permittee shall place a photo on the license or permit issued by the board prior to displaying the license at the location where services are being performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended LR 29:2782 (December 2003), amended by the Office of the Governor, Board of Cosmetology, LR 43:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding education and supervision of their children;
3. the functioning of the family;
4. family earnings and budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Steve Young, 11622 Sunbelt Court, Baton Rouge, LA 70809 and must be received no later than 12 p.m. on October 27, 2017.

Steve Young
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Cosmetologists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be costs to the State Board of Cosmetology in order to implement the new rule, and will be funded with self generated revenues from the associated fees.

The proposed rule changes amend certain rules regarding course requirements, examination of applicants, reporting student hours, transfer students, cosmetology schools, manicuring salons, pedicuring, alternative hair design, shampoo assistants and picture identification; enact rules regarding blow dry technicians, mobile salons and threading permits and repeal rules regarding special permits for make-up application.

The board estimates that the addition of threading permits and blow dry technician licenses will cost \$34 per permit/license for administration costs, and the cost of the license is \$25. In FY 18, the agency estimates there will be 10 threading permits. Due to the education requirements, there will be no licenses issued to blow dry technicians in FY 18. In the two subsequent fiscal years, the agency expects there to be an additional 10 permits/licenses each year. The board will incur one time nominal costs in order to add a blow dry technician and a threading listing to the computer database.

Additionally, the board will incur costs to add the mobile salon licenses. This will cost the board an estimated \$4 per license for the administration and issuance along with \$15 per week (\$3/day) per mobile salon in order for board staff to monitor a mobile salon by phone daily. The board expects to hire a new employee or increase the duties of a staff member in order to monitor the mobile salons. Monitoring the mobile salons will entail tracking their location multiple times a day. The board estimates 5 mobile salon licenses in FY 18, FY 19, and FY 20 which will cost \$30 annually with an initial inspection fee of \$25.

Total costs are expected to be \$4,260 in FY 18, \$8,860 in FY 19, and \$13,460 in FY 20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board will generate additional revenue as a result of the proposed rule change.

The threading and blow dry technician licenses will have an annual fee of \$25. In FY 18 the board expects to license 10 new threading permits, in FY 19 the board expects to issue an additional 10 threading permits as well as 10 blow dry licenses, in FY 20 the board expects to issue an additional 10 threading and blow dry licenses.

The mobile salon licenses will have an annual fee of \$30, and an initial inspection fee of \$25. The board expects there to be 5 mobile salons in FY 18, 10 in FY 19, and 20 in FY 20.

Total revenues are expected to be \$525 in FY 18, \$1,175 in FY 19, and \$1,825 in FY 20.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals and non-governmental will incur costs as a result of the proposed rule change.

Cosmetology schools and students have new reporting requirements, and may be affected by having to submit or fill out additional paperwork, and by collecting more information.

Salon or mobile salon owners will also be required to follow new staffing guidelines. The salon must now employ a registered manager if the owner is out typically more than two days per week. Shampoo assistants in salons must now have completed the required training hours to perform the duties, and if this happens to be a manager or owner he/she may have the ability to train other individuals as well.

In addition, individuals who wish to be employed as a threader or blow dry technician will now have the ability to be licensed, but will be subject to educational costs and fee requirements.

An individual may now own a mobile salon, but will be subject to the associated fees, as well as following all of the guidelines so that the mobile salon will remain compliant.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment opportunity in the State. Each year in the cosmetology industry people retire, move to another state or change their field of employment. The number of potential new workers is anticipated to be minimal and will not effect competition.

Steve Young
Executive Director
1709#030

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Applied Behavior Analysis-Based Therapy Services
Custodial Care Services (LAC 50:XV.301)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing promulgated a Rule which amended the reimbursement methodology governing applied behavior analysis (ABA) -based therapy services in order to realign the reimbursement rates to be consistent with the commercial rates for these services which will be in effect statewide in January 2017 (*Louisiana Register*, Volume 43, Number 4).

The department has now determined that it is necessary to amend the provisions governing ABA-based therapy services in order to clarify and properly format these provisions in a clear and concise manner in the *Louisiana Administrative Code*.

Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE Part XV. Services for Special Populations Subpart 1. Applied Behavior Analysis-Based Therapy Services

Chapter 3. Services

§301. Covered Services and Limitations

A. - F.4. ...

5. custodial care;

a. - a.i. ...

ii. is provided primarily for maintaining the recipient's or anyone else's safety; or

5.a.iii. - 6.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:926 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as directed in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, October 26, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an

opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Applied Behavior Analysis-Based
Therapy Services—Custodial Care Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$216 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed Rule amends the provisions governing applied behavior analysis (ABA)-based therapy services in order to clarify and properly format these provisions in a clear and concise manner in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not have costs or benefits to the Medicaid program in FY 17-18, FY 18-19 and FY 19-20.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1709#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
Children's Choice Waiver
Allocation of Waiver Opportunities
(LAC 50:XXI.Chapter 111, 11303,
Chapters 115-119, and 12301)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.Chapters 111-117, §11905, and §12301 and repeal §§11901 and 11903 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the Children's Choice Waiver to clarify the provisions of the waiver in order to ensure compliance with federal regulations, and to remove applied behavior analysis (ABA) as a covered service because ABA services are now covered under the Medicaid State Plan (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has now determined that it is necessary to amend the provisions governing the Children's Choice Waiver in order to: 1) implement a tiered waiver allocation process which establishes one request for services registry for all OCDD waivers and is centered on needs-based assessments; and 2) increase the age of the participant to 21.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers**

Subpart 9. Children's Choice

Chapter 111. General Provisions

§11101. Introduction

A. The Children's Choice (CC) Waiver is a home and community-based services (HCBS) program that offers supplemental support to individuals with intellectual/developmental disabilities (IDD) who currently live in the community or who will leave an institution to return to the community.

B. The Children's Choice Waiver is an option offered to individuals who have been determined eligible for developmental disability services and are on the intellectual/developmental disabilities request for services registry (IDDRFSR) hereafter referred to as "the registry" or as identified in §11105 or §11107.

C. Children's Choice Waiver participants are eligible for all medically necessary Medicaid services in addition to Children's Choice Waiver services.

D. The number of participants in the Children's Choice Waiver is contingent upon available funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:2793 (December 2000), repromulgated for LAC, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1891 (September 2009), LR 39:2497 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11103. Participant Qualifications and Admissions

Criteria

A. The Children's Choice Waiver is available to individuals who:

1. are from birth through age 20;
2. ...
3. are on the registry unless otherwise specified in §11105 and §11107;

4. ...

5. meet the requirements for an intermediate care facility for persons with intellectual/developmental disabilities (ICF/ID) level of care, which requires active treatment of a developmental disability under the supervision of a qualified developmental disability professional;

A.6. - B. ...

C. Participants who are currently receiving Children's Choice Waiver services who reach their eighteenth birthday and remain enrolled in school may continue receiving Children's Choice Waiver services until their twenty-first birthday at which time they will transition to the most appropriate OCDD adult waiver as long as they remain eligible for waiver services.

D. Participants who are currently receiving Children's Choice Waiver services and reach their eighteenth birthday and choose to no longer attend school may transition to a Supports Waiver anytime between their eighteenth birthday and their twenty-first birthday based on a person-centered planning process.

1. Participants who transition to a Supports Waiver will continue receiving Supports Waiver services after their twenty-first birthday as long as they remain eligible for waiver services.

2. Children's Choice Waiver recipients who reach their twenty-first birthday will transfer into the most appropriate OCDD adult waiver as long as they remain eligible for waiver services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 39:2498 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11104. Admission Denial or Discharge Criteria

A. Individuals shall be denied admission to or discharged from the Children's Choice Waiver if one of the following criteria is met:

1. ...

2. the individual does not meet the requirements for ICF/ID level of care;

3. - 4. ...

5. the participant is admitted to an ICF/ID or nursing facility with the intent to stay and not to return to waiver services:

a. ...

b. the participant will be discharged from the waiver on the ninety-first day if the participant is still in the ICF/ID or nursing facility;

6. - 7. ...

8. - 8.c. Repealed.

B. Recipients of the Children's Choice Waiver who reach their twenty-first birthday will transfer to the most appropriate OCDD adult waiver as long as they remain eligible for waiver services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2498

(September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11105. Money Follows the Person Rebalancing Demonstration

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration program awarded by the Centers for Medicare and Medicaid Services to the department. The demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services. The MFP rebalancing demonstration will stop allocation of opportunities when the demonstration expires.

1. ...

B. Individuals must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. Individuals with a developmental disability must:

a. be from birth through 20 years of age;

1.b. - 2. ...

C. Individuals who participate in the demonstration are not required to have a protected request date on the registry.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended by Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11107. Allocation of Waiver Opportunities

A. The intellectual/developmental disabilities (I/DD) request for services registry, hereafter referred to as "the registry," shall be used to identify individuals with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity.

1. - 1.b. Repealed.

B. Individuals who are found eligible for developmental disabilities services according to the *OCDD System Entry Policy*, and who request waiver services will be added to the registry. The request for services registry is arranged by the urgency of need and date of application for developmentally disabled (DD) waiver services.

1. - 1.b. Repealed.

C. Children's Choice Waiver opportunities shall be offered to individuals under the age of 21 who are on the registry, have the highest level of need and the earliest registry date. These individuals shall be notified in writing when a funded Children's Choice Waiver opportunity is available and that he/she is next in line for a Children's Choice Waiver slot except for allocations to the specific targeted groups cited as follows:

1. Money Follows the Person Rebalancing Demonstration Waiver opportunities which are allocated to demonstration participants only. The MFP Rebalancing demonstration will stop allocation of opportunities when the Demonstration expires. An additional 20 Children's Choice Waiver opportunities shall be created for the MFP Rebalancing Demonstration program and must only be filled by a demonstration participant. No alternate may utilize an MFP Rebalancing Demonstration opportunity.

a. In the event that an MFP Rebalancing Demonstration opportunity is vacated or closed, the

opportunity will be returned to the MFP Rebalancing Demonstration pool and an offer will be made based upon the approved program guidelines until such time as the demonstration expires.

1.b. - 6. Repealed.

D. The Office for Citizens with Developmental Disabilities (OCDD) has the responsibility to monitor the utilization of Children's Choice Waiver opportunities. At the discretion of the OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of individuals with developmental disabilities.

E. Funded opportunities will only be allocated to individuals who successfully complete the financial eligibility and medical certification process required for waiver certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 40:539, 540 (March 2014), LR 41:125 (January 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 113. Service

§11303. Service Definitions

A. The services in this §11303 are included in the service package for the Children's Choice Waiver. All services must be included on the approved plan of care which prior authorizes all services.

A.1. - N.4.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, amended LR 36:324 (February 2010), LR 39:2498 (September 2013), LR 40:67 (January 2014), LR 41:126 (January 2015), amended by Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 115. Provider Participation Requirements

Subchapter B. Provider Requirements

§11521. General Requirements for Medicaid Enrollment

A. ...

1. The provider must meet all the requirements for licensure as established by state laws and rules promulgated by the Department of Health (LDH) or have a current, valid license or certification from the appropriate governing board for that profession.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:310 (March 2001), repromulgated for LAC, LR 28:1984 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11523. Enrollment

A. ...

B. Providers shall attend all mandated meetings and training sessions as directed by OCDD as a condition of enrollment and continued participation as waiver providers. Attendance at a provider enrollment orientation shall be required prior to enrollment as a Medicaid provider of services. The frequency of the provider enrollment orientations shall be determined by LDH Health Standards Section.

C. A separate provider enrollment packet must be completed for each site in each LDH administrative region where the agency will provide services.

D. Participant case records and billing records shall be housed at the site in LDH administrative region where the participant resides.

E. - F. ...

G. Providers shall participate in initial training for prior authorization and data collection. This initial training and any LDH scheduled subsequent training addressing program changes is to be provided at no cost to the agency. Repeat training must be paid for by the requesting agency.

H. Providers shall develop a quality improvement plan which must be submitted for approval within 60 days after LDH training. Self-assessments are due six months after approval of the plan and yearly thereafter.

I. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 27:310 (March 2001), repromulgated for LAC by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1984 (September 2002), amended LR 28:2533 (December 2002), repromulgated LR 29:38 (January 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11525. Case Management Providers

A. ...

1. Providers of case management services for the Children's Choice program must have a contract with LDH to provide services to waiver participants.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:310 (March 2001), repromulgated for LAC, LR 28:1985 (September 2002), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11527. Direct Service Providers

A. ...

1. The provider must be licensed by LDH as a home and community-based services provider and meet the module specific requirements for the services being provided.

2. Direct service providers must provide, at a minimum, family support services, crisis support services

and subcontract services for center-based respite, family training, environmental adaptations and specialized medical equipment and supplies.

3. The following services may either be provided directly by the direct service provider or by written agreement (subcontract) with other agents; and the actual provider of the service, whether it is the direct service provider or a subcontracted agent, shall meet the following licensure or other qualifications.

a. Center-based respite must be provided by a facility licensed by LDH and meet all module specific requirements for the service.

3.b. - 5. ...

6. Agencies must provide services consistent with the personal outcomes identified by the participant and his/her family.

7. All personnel who are at a supervisory level must have a minimum of one year verifiable work experience in planning and providing direct services to people with intellectual/developmental disabilities.

8. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27: 310 (March 2001), repromulgated for LAC, LR 28:1985 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), LR 41:127 (January 2015), repromulgated LR 41:538 (March 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 117. Crisis Provisions

§11701. Participation in Children's Choice

A. Children's Choice Waiver participants who experience a crisis that increases the need for paid supports to a level that cannot be accommodated within the service cap specified in §11301.A on waiver expenditures, may request consideration for a crisis designation. A *crisis* is defined as a catastrophic change in circumstances rendering the natural and community support system unable to provide for the health and welfare of the participant at the level of benefits offered under Children's Choice. The procedure in this Chapter has been developed to address these situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:1015 (July 2001), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2502 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11703. Crisis Designation Criteria

A. In order to be considered a crisis, one of the following circumstances must exist:

1. - 2. ...

3. the participant is committed to the custody of LDH by the court; or

4. ...

5. the participant's condition deteriorates to the point when the plan of care is inadequate.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:1015 (July 2001), repromulgated for LAC, LR 28:1986 (September 2002), amended LR 29:704 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), LR 41:128 (January 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11705. Crisis Extension Provisions

A. Additional services (crisis support) outside of the waiver cap amount shall be approved by the OCDD state office. Crisis designation is time-limited, depending on the anticipated duration of the causative event. Each request for crisis designation may be approved for a maximum of three months.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:1015 (July 2001), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 119. Noncrisis Provisions

§11901. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1465 (June 2002), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), LR 41:128 (January 2015), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11903. Good Cause

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1465 (June 2002), repromulgated for LAC, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§11905. Determination Responsibilities and Appeals

A. The LGE shall have the responsibility for making the determinations as to the matters set forth in this Chapter 119. Persons who have elected or whose legal representatives

have elected that they receive services under the Children's Choice Waiver have the right to appeal any determination of the department as to matters set forth in this Chapter 119, under the regulations and procedures applicable to Medicaid fair hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1987 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2504 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 123. Self-Direction Initiative

§12301. Self-Direction Service Delivery Option

A. ...

B. **Participant Responsibilities.** Waiver participants choosing the self-directed service delivery option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is under 18 years of age or is unable to make decisions independently, the participant must have an authorized representative who understands the rights, risks and responsibilities of managing his/her care and supports within the participant's individual budget. The employer must be at least 18 years of age. Responsibilities of the participant or authorized representative include:

1. completion of mandatory trainings, including the rights and responsibilities of managing services, supports and individual budgets;

2. ...

a. adhering to the health and welfare safeguards identified by the team, including the application of a comprehensive monitoring strategy and risk assessment and management systems;

3. participation in the development and management of the approved budget:

a. this annual budget is determined by the recommended service hours listed in the participant's plan of care to meet his/her needs; and

b. the participant's individual budget includes a potential amount of dollars within which the participant or his/her authorized representative exercises decision-making responsibility concerning the selection of services and service providers;

c. Repealed.

4. all services rendered shall be prior approved and in accordance with the plan of care; and

5. all services must be documented in service notes, which describes the services rendered and progress towards the participant's personal outcomes and plan of care.

C. ...

1. **Voluntary Termination.** The waiver participant may choose at any time to withdraw from the self-direction service delivery option and return to the traditional provider agency management of services.

2. - 2.d.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2504 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as the tiered waiver process will allow families with the highest urgency of need and earliest registry dates to access services more quickly.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as the tiered waiver process will allow families with the highest urgency of need and earliest registry dates to access services more quickly.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, October 26, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based
Services Waivers—Children’s Choice Waiver
Allocation of Waiver Opportunities**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$2,484 (\$1,242 SGF and \$1,242 FED) will be expended in FY 17-18 for the state’s administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$1,242 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed Rule amends the provisions governing the Children Choice Waiver in order to: 1) implement a tiered waiver allocation process which establishes one Request for Services Registry for all OCDD waivers and is centered on needs-based assessments; and 2) increase the age of the participant to 21. It is anticipated that implementation of the proposed Rule may have an impact to recipients as a result of the change to a needs-based waiver allocation process. Recipients may also be impacted by the increase in the maximum age for Children’s Choice Waiver participants. There is no anticipated fiscal impact because there is no change in the reimbursement methodology or the services provided under the waiver. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to Children’s Choice Waiver services providers for FY 17-18, FY 18-19 and FY 19-20.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1709#046

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
New Opportunities Waiver
Allocation of Waiver Opportunities
(LAC 50:XXI.Chapter 137)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.Chapter 137 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the allocation of waiver opportunities in the new opportunities waiver (NOW) to revise the criteria for emergency opportunities, simplify the allocation process for NOW emergency opportunities and facilitate faster access to NOW emergency services for qualified individuals (*Louisiana Register*, Volume 42, Number 9).

The department now proposes to amend the provisions governing the NOW in order to: 1) implement a tiered waiver allocation process which establishes one request for services registry for all OCDD waivers and is centered on needs-based assessments and person-centered planning; 2) change the participant age requirement; 3) address and define priority groups; 4) require that a NOW opportunity be allocated only when other OCDD waivers will not support the participant; 5) eliminate the inactive status for NOW registry; and 6) eliminate reserve capacity groups.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers**

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

**§13703. Participant Qualifications and Admissions
Criteria**

A. In order to qualify for a new opportunities waiver (NOW), an individual must be 21 years of age or older and meet all of the following criteria:

1. have an intellectual and/or developmental disability as specified in R.S. 28:451.2;
2. be deemed eligible for developmental disability services and be on the intellectual/developmental disabilities (IDD) request for services registry (RFSR), unless otherwise specified through programmatic allocation in §13707;
3. - 5. ...
6. have justification, based on a uniform needs-based assessment and a person-centered planning discussion that the NOW is the only OCDD waiver that will meet the needs of the individual;
7. ...
8. be a citizen of the United States or a qualified immigrant.

B. Individuals under the age of 21 who receive NOW services prior to promulgation of this final Rule will be grandfathered-in to the NOW program. Individuals under the age of 21 who are transitioning to NOW services within 90 days of promulgation of this final Rule will retain their NOW offer and be allowed to transition to the NOW program.

C. Individuals age 18 through 20 may be offered a funded NOW opportunity if the results of the uniform needs-based assessment and person-centered planning discussion determine that the NOW is the most appropriate waiver. These offers must be approved by the OCDD assistant secretary/designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1201 (June 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:96 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13704. Needs-Based Assessment

A. A uniform needs-based assessment in conjunction with person-centered planning is utilized in the service planning process for the individuals receiving or participating in an OCDD waiver. The results of this assessment activity shall be utilized to determine which OCDD waiver will be offered to the individual during the initial plan of care process.

1. The participant or his/her representative may request a reconsideration and present supporting documentation if he/she disagrees with the specific OCDD waiver offered as a result of the needs based assessment and person-centered planning process. If the participant disagrees with the reconsideration decision, he/she may request a fair hearing through the formal appeals process.

2. - 4. Repealed.

B. The needs-based assessment instrument(s) is designed to evaluate the practical support requirements of individuals with developmental disabilities in daily living, medical and behavioral areas, including:

1. home living;
2. community living;
3. lifelong learning;
4. employment;
5. health and safety;
6. social activities; and
7. protection and advocacy.

C. The needs-based assessment instrument(s) is also used to evaluate the individual's support needs based on information and data obtained from four areas of the person's life, which includes:

1. support needs measurements including:
 - a. material support;
 - b. vision related supports;
 - c. hearing related supports;
 - d. supports for communicating needs;
 - e. positive behavior supports;
 - f. physicians supports;
 - g. professional supports (e.g., registered nurse, physical therapist, occupational therapist, etc.); and
 - h. stress and risk factors;
2. living arrangements and program participation including:
 - a. people living in the home;
 - b. natural supports in the home;
 - c. living environments; and
 - d. supports and service providers;
3. medical and diagnostic information findings including:
 - a. diagnoses;
 - b. medications and dosages; and
 - c. need for relief from pain or illness; and
4. personal satisfaction reports including:
 - a. agency supports provided at home;
 - b. work or day programs;

- c. living environment;
- d. family relationships; and
- e. social relationships.

D. - D.4.e. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing and the Office for Citizens with Developmental Disabilities, LR 36:65 (January 2010), amended LR 40:69 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13706. Resource Allocation

A. The resource allocation model shall be used to assign service units based on the findings of the needs-based assessment and person-centered planning discussion for individuals who will be offered or are currently receiving new opportunities waiver services. Within the resource allocation model, there is a determination of an acuity level for individual and family support (IFS) services.

1. The participant or his/her representative may request a reconsideration and present supporting documentation if he/she disagrees with the amount of assigned IFS service units. If the participant disagrees with the reconsideration decision, he/she may request a fair hearing through the formal appeals process.

2. Implementation of the resource allocation model was phased-in for the allocation of new NOW opportunities and renewal of existing NOW opportunities beginning July 1, 2009.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Service Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13707. Programmatic Allocation of Waiver Opportunities

A. The intellectual/developmental disabilities request for services registry, hereafter referred to as "the registry," shall be used to identify persons with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity.

B. Individuals who are found eligible for developmental disabilities services using standardized tools, and who request waiver services will be added to the registry. The request for services registry (RFSR) is arranged by the urgency of need and date of application for developmentally disabled (DD) waiver services.

C. Funded OCDD waiver opportunities will be offered based on the following priority groups:

1. individuals living at Pinecrest Supports and Services Center or in a publicly-operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement, or their alternates. *Alternates* are defined as individuals living in a private ICF-ID who will give up the private ICF-ID bed to an individual living at Pinecrest or to an individual who was living in a publicly-operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement. Individuals requesting to transition from either facility listed above are awarded the appropriate waiver when one is requested, and their health and safety can be assured in an OCDD home and community-based waiver program:

a. the bed being vacated by the alternate in the private ICF-ID must be reserved for 14 days for the placement of a person being discharged from a publicly-operated facility. The person's discharge from a publicly-operated facility and his/her subsequent placement in a private ICF-ID is to occur as close as possible to the actual discharge of the alternate from the private ICF-ID and is not to exceed 14 days from the date of the alternate's discharge and certification for the waiver. The bed may be held vacant beyond the 14 days with the concurrence of the private ICF-ID provider;

b. the funded waiver opportunity will be reserved for a period not to exceed 120 days; however, this 120-day period may be extended as needed;

2. individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment.

3. - 8. Repealed.

D. ...

E. Funded waiver opportunities will only be allocated to individuals who successfully complete the financial and medical eligibility process required for waiver certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 31:2900 (November 2005), amended LR 33:2440 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:3526 (December 2011), LR 40:70 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13709. Emergency Opportunities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 31:2901 (November 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:71 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:1520 (September 2016), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S.

49:972 as the tiered waiver process will allow families with the highest urgency of need and earliest registry dates to access services more quickly.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty as described in R.S. 49:973 as the tiered waiver process will allow families with the highest urgency of need and earliest registry dates to access services more quickly.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, October 26, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—New Opportunities Waiver Allocation of Waiver Opportunities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$1,296 (\$648 SGF and \$648 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated

that \$648 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the New Opportunities Waiver (NOW) in order to: 1) implement a tiered waiver allocation process which establishes one Request for Services Registry for all OCDD waivers and is centered on needs-based assessments and person-centered planning; 2) change the participant age requirement; 3) address and define priority groups; 4) require that a NOW opportunity be allocated only when other OCDD Waivers will not support the participant; 5) eliminate the inactive status for NOW registry; and 6) eliminate reserve capacity groups. It is anticipated that implementation of the proposed Rule may have an impact to recipients as a result of the change to a needs-based waiver allocation process. There is no anticipated fiscal impact because there is no change in the reimbursement methodology or the services provided under the waiver. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to NOW service providers for FY 17-18, FY 18-19 and FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1709#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers
Residential Options Waiver
Allocation of Waiver Opportunities
(LAC 50:XXI.16105, 16107, and 16901)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.16105, §16107, and §16901 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with Act 299 of the 2011 Regular Session of the Louisiana Legislature the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the Residential Options Waiver (ROW) to clarify the reimbursement methodology, remove language that provided historical information pertaining to the rate reimbursement and revise the terminology associated with ROW reimbursements (*Louisiana Register*, Volume 42, Number 6).

The department now proposes to amend the provisions governing ROW in order to: 1) implement a tiered waiver allocation process which establishes one request for services registry for all OCDD waivers; 2) allow a one-time transfer of individuals with an OCDD statement of approval to be transitioned from OAAS's Community Choices Waiver and Adult Day Healthcare Waiver wait list to the OCDD wait list; 3) change the entrance age requirement; 4) clarify priority groups; and 5) change the rate methodology for support coordination service from a unit rate to monthly flat rate billing.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services
Waivers**

Subpart 13. Residential Options Waiver

Chapter 161. General Provisions

§16105. Participant Qualifications

A. In order to qualify for Residential Options Waiver (ROW), an individual must be 21 years of age or older and meet all of the following criteria:

1. have an intellectual and/or developmental disability as specified in R.S. 28:451.2;
2. be determined eligible through the developmental disabilities entry process;
3. be on the intellectual/developmental disabilities (IDD) request for services registry (RFSR), unless otherwise specified through programmatic allocation in §16107;
4. meet the requirements for an ICF/ID level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;
5. meet the financial eligibility requirements for the Louisiana Medicaid Program;
6. have justification, based on a uniform needs-based assessment and a person-centered planning discussion that the ROW is the OCDD waiver that will meet the needs of the individual;
7. be a resident of Louisiana; and
8. be a citizen of the United States or a qualified alien.

B. Individuals under the age of 21 who receive ROW services prior to promulgation of this final Rule will be grandfathered-in to the ROW program. Individuals under the age of 21 who are in the process of being certified into the ROW prior to the promulgation of this final Rule will retain their ROW offer and be allowed to transition to the ROW program.

C. Individuals age 18 through 20 may be offered a funded ROW opportunity if the results of the uniform needs-based assessment and person-centered planning discussion determine that the ROW is the most appropriate waiver. These offers must be approved by the OCDD assistant secretary/designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental

Disabilities, LR 41:2155 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§16107. Programmatic Allocation of Waiver

Opportunities

A. The intellectual/developmental disabilities request for services registry, hereafter referred to as “the registry,” shall be used to identify persons with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity. Individuals who are found eligible for developmental disabilities services using standardized tools, and who request waiver services will be added to the registry. The request for services registry (RFSR) is arranged by urgency of need and date of application for developmentally disabled (DD) waiver services, except for the priority groups listed in B.1-4 of this Section.

1. - 3. Repealed.

B. Funded OCDD waiver opportunities will be offered based on the following priority groups:

1. Individuals with intellectual and developmental disabilities (I/DD) who have a statement of approval (SOA) through OCDD, and who currently receive services via the Office of Aging and Adult Services (OAAS) Community Choices Waiver (CCW) or Adult Day Health Care (ADHC) Waiver programs, shall be a priority group to allow for an one time transition into the ROW upon promulgation of this final Rule.

2. Individuals living at Pinecrest Supports and Services Center or in a publicly operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement, or their alternates. Alternates are defined as individuals living in a private ICF-ID who will give up the private ICF-ID bed to an individual living at Pinecrest or to an individual who was living in a publicly operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement. Individuals requesting to transition from either facility listed above are awarded the appropriate waiver when one is requested, and their health and safety can be assured in an OCDD home and community-based waiver program.

a. - b.vii. Repealed.

3. Individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment.

a. - e. Repealed.

4. Persons who reside in a Medicaid-enrolled ICF/ID and wish to transition to a home and community-based residential services waiver through a voluntary ICF/ID bed conversion process.

5. - 7. Repealed.

C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 169. Reimbursement

§16901. Unit of Reimbursement

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service and reimbursement shall not be made for less than one quarter hour of service. This covers both the service provision and administrative costs for these services:

1. - 5.f. ...

6. supported employment;
a. individual placement; and
b. micro-enterprise; and

7. adult day health care.

7.a. - 8. Repealed.

EXCEPTION: The reimbursement for support coordination shall be at a fixed monthly rate and in accordance with the terms of the established contract.

B. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:2168, 2170 (October 2015), LR 42:63 (January 2016), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as the tiered waiver process will allow families with the highest urgency of need and earliest registry dates to get services more quickly.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty as described in R.S. 49:973 as the tiered waiver process will allow families with the highest urgency of need and earliest registry dates to get services more quickly.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's

ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, October 26, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Residential Options Waiver Allocation of Waiver Opportunities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$486 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Residential Options Waiver (ROW) in order to: 1) implement a tiered waiver allocation process which establishes one Request for Services Registry for all OCDD waivers; 2) allow a one-time transfer of individuals with an OCDD statement of approval to be transitioned from OAAS's Community Choices Waiver and Adult Day Healthcare Waiver wait list to the OCDD wait list; 3) change the entrance age requirement; 4) clarify priority groups; and 5) change the rate methodology for support coordination service from a unit rate to monthly flat rate billing. It is anticipated that implementation of the proposed Rule may have an impact to recipients as a result of the change to a needs-based waiver allocation process. Recipients may also be impacted by the change in the entrance age requirement for accessing ROW services. The Rule also changes the payment methodology from an incremental payment to a per diem payment. There is no fiscal impact because the per diem for support coordination services is based on current dollars spent. In addition, there are no changes in service definitions or expectation for support coordination

services; therefore, there is no anticipated impact to the providers. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to ROW service providers for FY 17-18, FY 18-19 and FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1709#048

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Supports Waiver
Allocation of Waiver Opportunities
(LAC 50:XXI.5301, 5501, 5505, 5701, and 5901)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.5301, §5501, §5701, and §5901 and to adopt §5505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Development Disabilities amended the provisions governing the Supports Waiver in order to revise the: 1) covered services; 2) allocation of waiver opportunities; 3) target population; and 4) reimbursement methodology (*Louisiana Register*, Volume 40, Number 12).

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Development Disabilities has now determined that it is necessary to amend the provisions governing the Supports Waiver in order to implement a tiered waiver allocation process which establishes one Request for Services Registry for all OCDD waivers and is centered on needs-based assessments and person-centered planning.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 5. Supports Waiver

Chapter 53. General Provisions

§5301. Purpose

A. - A.3. ...

B. Allocation of Waiver Opportunities. The intellectual/developmental disabilities request for services registry, hereafter referred to as "the registry," shall be used to identify persons with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity.

1. Individuals who are found eligible for developmental disabilities services using standardized tools, and who request waiver services will be added to the registry.

2. The request for services registry (RFSR) is arranged by the urgency of need and date of application for developmentally disabled (DD) waiver services.

3. Funded OCDD waiver opportunities will be offered based on the following two priority groups:

a. Individuals living at Pinecrest Supports and Services Center or in a publicly operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement, or their alternates. Alternates are defined as individuals living in a private ICF-ID who will give up the private ICF-DD bed to an individual living at Pinecrest or to an individual who was living in a publicly operated ICF-ID when it was transitioned to a private ICF-ID through a cooperative endeavor agreement. Individuals requesting to transition from either facility listed above are awarded the appropriate waiver when one is requested, and their health and safety can be assured in an OCDD home and community-based waiver program.

i. The bed being vacated by the alternate in the private ICF-ID must be reserved for 14 days for the placement of a person being discharged from a publicly-operated facility. The person's discharge from a publicly-operated facility and his/her subsequent placement in a private ICF-ID is to occur as close as possible to the actual discharge of the alternate from the private ICF-ID and is not to exceed 14 days from the date of the alternate's discharge and certification for the waiver. The bed may be held vacant beyond the 14 days with the concurrence of the private ICF-ID provider.

ii. The funded waiver opportunity will be reserved for a period not to exceed 120 days. However, this 120-day period may be extended as needed.

b. Individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment.

C. The Office for Citizens with Development Disabilities has the responsibility to monitor the utilization of Supports Waiver opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the state of Louisiana.

D. Funded waiver opportunities will only be allocated to individuals who successfully complete the financial and medical eligibility process required for waiver certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1604 (September 2006), amended LR 40:2583 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 55. Target Population

§5501. Participant Qualifications and Admissions

Criteria

A. - A.8....

B. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1604 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2583 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§5505. Needs-Based Assessment

A. A uniform needs-based assessment in conjunction with person-centered planning is utilized in the service planning process for the individuals receiving or participating in an OCDD waiver. The results of this assessment activity shall be utilized to determine which OCDD waiver will be offered to the individual during the initial plan of care process.

1. The participant or his/her representative may request a reconsideration and present supporting documentation if he/she disagrees with the specific OCDD waiver offered as a result of the needs-based assessment and person-centered planning process. If the participant disagrees with the reconsideration decision, he/she may request a fair hearing through the formal appeals process.

B. The needs-based assessment instrument(s) is designed to evaluate the practical support requirements of individuals with developmental disabilities in daily living, medical and behavioral areas including:

1. home living;
2. community living;
3. lifelong learning;
4. employment;
5. health and safety;
6. social activities; and
7. protection and advocacy.

C. The needs-based assessment instrument(s) is also used to evaluate the individual's support needs based on information and data obtained from the following four areas of the person's life:

1. support needs scale measurements including:
 - a. material supports;
 - b. vision related supports;
 - c. hearing related supports;
 - d. supports for communicating needs;
 - e. positive behavior supports;
 - f. physicians supports;
 - g. professional supports (e.g., registered nurse, physical therapist, occupational therapist, etc.); and
 - h. stress and risk factors;
2. living arrangements and program participation including:
 - a. people living in the home;
 - b. natural supports in the home;
 - c. living environments; and
 - d. supports and service providers;
3. medical and diagnostic information findings including:
 - a. diagnoses;
 - b. medications and dosages; and
 - c. need for relief from pain or illness;
4. personal satisfaction reports including:

- a. agency supports provided at home;
- b. work or day programs;
- c. living environment;
- d. family relationships; and
- e. social relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 57. Covered Services

§5701. Supported Employment Services

A. - G.4. ...

H. Restrictions. Participants receiving individual supported employment services may also receive prevocational or day habilitation services. However, these services cannot be provided during the same service hours and cannot total more than five hours of services in the same day. Participants receiving group supported employment services may also receive prevocational or day habilitation services; however, these services cannot be provided in the same service day.

I. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1605 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2585 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 59. Provider Participation

§5901. General Provisions

A. - C.1....

2. Supported Employment Services. The provider must possess a valid certificate of compliance as a community rehabilitation provider (CRP) from Louisiana rehabilitation services or the certification and training as required per OCDD.

3. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, Office for Citizens with Developmental Disabilities, LR 40:2587 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family

functioning, stability and autonomy as described in R.S. 49:972 as the tiered waiver process will allow families with the highest urgency of need and earliest registry dates to access services more quickly.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as the tiered waiver process will allow families with the highest urgency of need and earliest registry dates to access services more quickly.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, October 26, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Supports Waiver Allocation of Waiver Opportunities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$1,188 (\$594 SGF and \$594 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated

that \$594 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Supports Waiver in order to implement a tiered waiver allocation process which establishes one Request for Services Registry for all OCDD waivers and is centered on needs-based assessments and person-centered planning. It is anticipated that implementation of the proposed Rule may have an impact to recipients as a result of the change to a needs-based waiver allocation process. There is no anticipated fiscal impact because there is no change in the reimbursement methodology or the services provided under the waiver. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to Supports Waiver service providers for FY 17-18, FY 18-19 and FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1709#049

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Increase
(LAC 50:V.Chapter 9)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in SFY 2017, the Department of Health, Bureau of Health Services Financing promulgated a Rule which amended the provisions governing inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals classified as high Medicaid hospitals (*Louisiana Register*, Volume 43, Number 7).

House Concurrent Resolution (HCR) 8 of the 2017 Regular Session of the Louisiana Legislature required the Department of Health to increase the Medicaid reimbursement rates paid to qualifying non-rural, non-state hospitals for the provision of inpatient acute care services.

In order to comply with the requirements of HCR 8, the department now proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to qualifying non-rural, non-state hospitals and to establish provisions for reimbursement to free-standing rehabilitation hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - U.1. ...

V. Effective for dates of service on or after January 1, 2018, the inpatient per diem rate paid to acute care hospitals shall be increased by indexing to 56 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

1. Acute care hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 56 percent the January 1, 2017 small rural hospital rate shall not be increased.

2. Carve-out specialty units, nursery boarder, and well-baby services are excluded from these rate increases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:963 (May 2017), amended LR 43:1389 (July 2017), amended LR 43:

§955. Long-Term Hospitals

A. - K. ...

L. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to long-term hospitals shall be increased by indexing to 42 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017. Long-term hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 42 percent of the January 1, 2017 small rural hospital rate shall not be increased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), amended LR 43:

§959. Inpatient Psychiatric Hospital Services

A. - M.1. ...

N. Effective for dates of service on or after January 1, 2018, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part

psychiatric units within non-rural, non-state acute care hospitals, shall be increased by indexing to 31 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

1. Psychiatric hospitals and units whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 31 percent of the January 1, 2017 small rural hospital rate shall not be increased.

2. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.L of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013), LR 39:323 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), amended LR 43:

§961. Inpatient Rehabilitation Hospital Services

A. Definitions

Free-Standing Rehabilitation Hospital—a non-rural, non-state hospital that is designated as a rehabilitation specialty hospital by Medicare.

B. Reimbursement Methodology

1. Effective for dates of service on or after January 1, 2018, the prospective per diem rate paid to non-rural, non-state free-standing rehabilitation hospitals shall be indexed to 36 percent of the small rural hospital prospective per diem rate in effect on January 1, 2017.

2. Rehabilitation hospitals whose per diem rates as of January 1, 2017, excluding the graduate medical education portion of the per diem, are greater than 36 percent of the January 1, 2017 small rural hospital rate shall not be increased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service and may enhance the provider's ability to provide the same level of service since this proposed Rule increases the payments to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, October 26, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Rate Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic cost (Hospital Stabilization Fund statutory dedication revenues) of approximately \$972,105 for FY 17-18, \$2,544,489 for FY 18-19 and \$2,620,824 FY 19-20. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18, and 64.23 in FY 18-19 and FY 19-20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,679,259 for FY 17-18, \$4,568,984 for FY 18-19 and \$4,706,053 for FY 19-20. It is anticipated that \$432 will be expended in FY 17-18 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18, and 64.23 in FY 18-19 and FY 19-20.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the reimbursement methodology for inpatient hospital services to

increase the Medicaid reimbursement rates paid to qualifying non-rural, non-state hospitals and to establish provisions for reimbursement to free-standing rehabilitation hospitals in compliance with the requirements of House Concurrent Resolution (HCR) 8 of the 2017 Regular Session of the Louisiana Legislature. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for inpatient hospital services by approximately \$2,650,500 for FY 17-18, \$7,113,473 for FY 18-19 and \$7,326,877 for FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a positive effect on employment as it will increase payments made to non-rural, non-state hospitals. The increase in payments may enhance the financial standing of these providers and could possibly cause an increase in employment opportunities.

Jen Steele
Medicaid Director
1709#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medicaid Eligibility
Express Lane Eligibility
(LAC 50:III.1103)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.1103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to establish express lane eligibility (ELE) in order to expedite identification and enrollment of uninsured children in the Medicaid/Louisiana Children's Health Insurance Program (LaCHIP), to clarify which agencies' data will be used for ELE determinations, and to identify additional agencies which may provide data (*Louisiana Register*, Volume 36, Number 7).

The Department of Health, Bureau of Health Services Financing has now determined that it is necessary to amend the provisions governing ELE in order to remove certain agencies from the eligibility determinations process to comply with the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 1. General Administration

Chapter 11. Express Lane Eligibility

§1103. Eligibility Determinations

A. - A.1. ...

B. The department shall utilize eligibility findings from express lane agencies that administer the:

1. ...

2. Temporary Assistance for Needy Families;
3. state program funded under title IV-D (child support enforcement services/SES); and
4. Child Care and Development Block Grant Act of 1990.

5. - 7. Repealed.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct cost or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, October 26, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Express Lane Eligibility**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that \$216 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing Express Lane Eligibility (ELE) in order to remove certain agencies from the eligibility determinations process to comply with the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). Since inter-agency work with these agencies was never realized, CMS requires that the Medicaid State Plan be amended to remove them from the list of agencies involved in the current ELE process. It is anticipated that implementation of this proposed rule will not have costs or benefits to the Medicaid program in FY 17-18, FY 18-19 and FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1709#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Outpatient Hospital Services
Non-Rural, Non-State Hospitals and
Children's Specialty Hospitals
Reimbursement Rate Increase
(LAC 50:V.5313, 5317, 5513, 5517,
5713, 5719, 6115 and 6119)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.5313, §5317 §5513, §5517, §5713, §5719, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing, in compliance with the requirements of House Concurrent Resolution (HCR) 51 of the 2016 Regular

Session of the Louisiana Legislature amended the provisions governing the reimbursement methodology for outpatient hospital services in order to increase the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 43, Number 5).

House Concurrent Resolution 8 of the 2017 Regular Session of the Louisiana Legislature required the department to increase the reimbursement rates for outpatient hospital services paid to non-rural, non-state hospitals and children's specialty hospitals to the rates in effect on June 30, 2010. This proposed Rule is being promulgated in order to comply with the provisions of HCR 8.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:964 (May 2017), LR 43:

§5317. Children's Specialty Hospitals

A. - G.1. ...

H. Effective for dates of service on or after January 1, 2018, the reimbursement paid to children's specialty hospitals for outpatient surgery shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:

§5517. Children's Specialty Hospitals

A. - G. ...

H. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to children's specialty hospitals for outpatient hospital clinic services shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:

§5719. Children's Specialty Hospitals

A. - G. ...

H. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be increased by 4.82 percent of the rates on file as of December 31, 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. - I.1. ...

J. Effective for dates of service on or after January 1, 2018, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services, other than clinical

diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be increased by 4.82 percent of the rates in effect as of December 31, 2017.

1. Final reimbursement shall be 74.56 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:

§6119. Children's Specialty Hospitals

A. - G.1. ...

H. Effective for dates of service on or after January 1, 2018, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services, other than rehabilitation services and outpatient hospital facility fees, shall be increased by 4.82 percent of the rates in effect as of December 31, 2017.

1. Final reimbursement shall be 92.15 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:965 (May 2017), LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service and may enhance the provider's ability to provide the same level of service since this proposed Rule

increases the payments to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, October 26, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Outpatient Hospital Services Non-Rural, Non-State Hospitals and Children's Specialty Hospitals—Reimbursement Rate Increase**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic cost (Hospital Stabilization Fund statutory dedication revenues) of approximately \$291,027 for FY 17-18, \$760,831 for FY 18-19 and \$783,656 FY 19-20. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18 and 64.23 in FY 18-19 and FY 19-20.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$502,474 for FY 17-18, \$1,366,178 for FY 18-19 and \$1,407,163 for FY 19-20. It is anticipated that \$486 will be expended in FY 17-18 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 63.34 percent in FY 17-18 and 64.23 FY 18-19 and FY 19-20.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, in compliance with House Concurrent Resolution (HCR) 8 of the 2017 Regular Session of the Louisiana Legislature, amends the reimbursement methodology for outpatient hospital services to increase the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals to the rates in effect on June 30, 2010. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for outpatient hospital services by approximately \$792,529 for FY 17-18, \$2,127,009 for FY 18-19 and \$2,190,819 for FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a positive effect on employment as it will increase payments made to non-rural, non-state hospitals. The increase in payments may enhance the financial standing of these providers and could possibly cause an increase in employment opportunities.

Jen Steele
Medicaid Director
1709#052

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of State Board of Election Supervisors

Appeal of Merit Evaluation for the Registrar of Voters
(LAC 31:II.201)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:24(A)(6), R.S. 18:55, and R.S. 36:742, the State Board of Election Supervisors is proposing to adopt this Rule to provide for the appeal process for merit evaluations of the registrars of voters. During the 2016 Regular Legislative Session, Act 358 was enacted authorizing the State Board of Election Supervisors to conduct appeals of merit evaluations of registrars of voters.

Title 31

ELECTIONS

Part II. Voter Registration

Chapter 2. Registrars of Voters

§201. Appeal of Merit Evaluation for the Registrar of Voters

A. Submission of a Request for Appeal

1. A registrar of voters who does not receive an "excellent" rating on his or her annual merit evaluation may appeal that rating to the State Board of Election Supervisors.

2. The request for appeal shall be in writing and shall be postmarked or received by the human resources director in the Department of State, or the human resources director's designee, no later than January 31.

3. The request for appeal shall explain the reasons for the request and may provide supporting documentation.

4. If the request for appeal is received timely and contains the required explanation, the human resources director shall submit a notification of the request to the chairperson of the State Board of Elections Supervisors and to the director of registration within 15 days of receipt of the request for appeal. The notification of request for appeal shall include copies of the written request of the registrar of voters, the original annual merit evaluation, and any supporting documentation provided by the registrar of voters with his or her written request for appeal.

5. The Department of State grievance process shall not be used to review or reconsider evaluations or a procedural violation of the evaluation process.

B. The State Board of Election Supervisors

1. All written requests for appeal of annual merit evaluations that meet the requirements of Subsection A of

this Section shall be considered by the State Board of Election Supervisors.

2. The State Board of Election Supervisors shall consist of eight members. The chairperson shall vote only to break a tie. The commissioner of elections shall not vote on the appeal of merit evaluation for the registrar of voters.

3. The chairperson shall convene a meeting of the State Board of Election Supervisors within 15 days of receipt of notification of the request for appeal to discuss the request and render a decision regarding the rating. The registrar of voters who submitted the request for appeal shall be given an opportunity to be heard at the meeting. The board may vote to uphold the "satisfactory" rating or to change the rating to "excellent".

4. The chairperson of the board shall give written notice of the board's decision to the affected registrar of voters, the director of registration, and the human resources director within 10 days.

C. The annual merit evaluation form, the written request for appeal of the registrar of voters, the written notice of the board's decision, and all supporting documentation shall be maintained in the official confidential personnel file of the registrar of voters on file in the Department of State's human resources office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:24, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Board of Election Supervisors, LR 43:

Family Impact Statement

The proposed Rule cited in LAC 31:II.201 regarding the appeal of merit evaluation for registrars of voters should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

Poverty Impact Statement

The proposed Rule cited in LAC 31:II.201 regarding the appeal of merit evaluation for registrars of voters should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

Provider Impact Statement

The proposed Rule does not have any known or unforeseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Lani Durio, Attorney, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding the proposed Rule regarding the appeal process of merit evaluation for the registrar of voters. The deadline for the Department of State to receive written comments on behalf of the State Board of Elections Supervisors is 4:30 p.m. on Thursday, October 26, 2017 after the public hearing.

Public Hearing

A public hearing on the proposed Rule is scheduled for Wednesday, October 25, 2017 at 1:00 p.m. in the Auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments, either orally or in writing.

Tom Schedler
Chairperson

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Appeal of Merit Evaluation for the Registrar of Voters

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in any costs or savings to state or local governmental units.

The proposed rule change requires the State Board of Election Supervisors to receive and evaluate appeals from registrars of voters who do not receive an "excellent" in the merit evaluation process conducted by the Department of State. In accordance with Act 358 of 2016, the Department of State will no longer receive and evaluate appeals beginning with the 2017 merit evaluations.

It is expected that the appeals process can be conducted as part of existing board meetings. However, the board members do not receive a per diem or travel expenses, so there would be no additional expenses incurred if there was a need for an additional meeting.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will not result in any costs or benefits for directly affected persons or non-governmental entities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition and employment.

Joe R. Salter
Undersecretary
1709#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of State Elections Division

Merit Evaluations and Appeals for the Registrar of Voters (LAC 31:II.Chapter 1)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:18, R.S. 18:55, R.S. 18:59, and R.S. 36:742, the Department of State is proposing to adopt amendments to the Rule to repeal the appeal process for merit evaluations of the registrars of voters. During the 2016 Regular Legislative Session, Act 358 was enacted authorizing the State Board of Election Supervisors to conduct appeals of merit evaluations of registrars of voters. In addition, the Department of State is proposing to amend merit evaluations for registrars of voters, chief deputies, and confidential assistants requiring a written explanation for those who do not receive an “excellent” rating based upon the recommendation of the House and Governmental Affairs Committee on March 4, 2015.

Title 31 ELECTIONS

Part II. Voter Registration

Chapter 1. Registrars of Voters

§107. Merit Evaluation for the Registrar of Voters

A. - C. ...

D. A written explanation shall be given to any registrar of voters who does not receive an “excellent” rating.

AUTHORITY NOTE: Promulgated in according with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:759 (April 2015), LR 43:

§108. Appeal of Merit Evaluation for the Registrar of Voters

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 41:759 (April 2015), repealed LR 43:

§109. Merit Evaluations of the Chief Deputy and Confidential Assistant

A. - C. ...

D. A written explanation shall be given to any chief deputy and confidential assistant who does not receive an “excellent” rating.

AUTHORITY NOTE: Promulgated in according with R.S. 18:18, R.S. 18:59, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:759 (April 2015), LR 43:

Family Impact Statement

The proposed amendments to the Rule cited in LAC 31:II.107, 108, and 109 regarding the repeal of the appeal process of merit evaluation for registrars of voters and amendments to merit evaluations for registrars of voters, chief deputies, and confidential assistants should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

Poverty Impact Statement

The proposed amendments to the Rule cited in LAC 31:II. 107, 108, and 109 regarding the repeal of the appeal of merit evaluation for registrars of voters and amendments to merit evaluations for registrars of voters, chief deputies, and confidential assistants should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed amendments to the Rule is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

Provider Impact Statement

The proposed amendments to the Rule does not have any known or unforeseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Lani Durio, Attorney, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding the proposed repeal of Section 108 regarding appeal process for merit evaluations of registrars of voters and amendments to Rule to include a written explanation be given to any registrar of voters, chief deputy, and confidential assistant who does not receive an "excellent" rating. The deadline for the Department of State to receive written comments is 4:30 p.m. on Thursday, October 26, 2017 after the public hearing.

Public Hearing

A public hearing on the proposed repeal and amendments to the Rule is scheduled for Wednesday, October 25, 2017 at 1:30 p.m. in the auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments, either orally or in writing.

Tom Schedler
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Merit Evaluations and
Appeals for the Registrar of Voters**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local governmental units.

The proposed rule change repeals provisions associated with the appeal process for registrars of voters who do not receive an "excellent" in the merit evaluation process conducted by the Department. In accordance with Act 358 of 2016 the Department of State will no longer receive and evaluate appeals beginning with the 2017 merit evaluations. The same act now requires the State Board of Election Supervisors to conduct the appeals process.

In addition, there is a proposed rule change requiring the Department to provide a written statement in the merit evaluations if a registrar of voters, chief deputies, or confidential assistant does not receive an "excellent" rating. Originally, this provision was included in Section 108, which is being repealed and is now being placed in Sections 107 and 109.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs or benefits for directly affected persons or non-governmental entities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Joe. R. Salter
Undersecretary
1709#037

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Office of the Secretary of State**

Non-Statutory Departmental Fees (LAC 4:I.Chapter 4)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 3:1447, R.S. 9:2782, R.S. 18:1293, R.S. 24:172, R.S. 24:173.1, R.S. 25:1282, R.S. 25:1284, R.S. 36:742, R.S. 40:1151.2, R.S. 43:19, R.S. 44.1 et seq., R.S. 44:402, R.S. 44:405, R.S. 44:406, R.S. 44:408, R.S. 44:415, R.S. 44:420, R.S. 44:421, R.S. 49:222(A), R.S. 49:227, R.S. 49:228, Hague Convention of 5 October 1961 abolishing the requirement of legalization for foreign public documents, and Hague Convention of 29 May 1993 on protection of children and co-operation in respect of intercountry adoption (22 CFR Part 96), the Department of State is proposing to adopt a non-statutory fee schedule for the Department of State. In addition, the Department of State is proposing to adopt rules and fees for the Louisiana state archives facilities.

**Title 4
ADMINISTRATION
Part I. General Provisions**

**Chapter 3. Fees
§303. Department of State Non-Statutory Fee Schedule Repealed.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 12:689 (October 1986), amended LR 29:372 (March 2003), repealed LR 43:

**Chapter 4. Department of State
§401. Department of State Non-Statutory Fee Schedule**

A. The Department of State has established non-statutory fee schedules for various filings, services, and publications. If a product referred to in the schedules shown below has to be mailed, the cost for mailing said product would be added to the fee charged.

1. Department of State General Fees

Item	Fee
Express Delivery (Cost Per Package)	Actual Cost
Non-Sufficient Funds Charge	\$25.00
Photocopies (Per Page)	\$0.25
Postage (Per Package)	Actual Cost
Public Records Request Fee (Certify Public Records) (Cost Per Certification Form)	\$20.00
Public Records Request Fee (Cost Per Page up to 8 1/2" X 14") (Two-sided copy is charged as two pages) (Including Facsimile)	\$0.25
Public Records Request Fee (Cost Per Page for Printed Copy Greater Than 8 1/2" X 14") (Two-sided copy is charged as two pages)	Actual Cost

Item	Fee
Public Records Request Fee (Cost Per Page for CD-ROM or USB Drive)	\$0.25
Public Records Request Fee (Cost Per Page for Electronic File Emailed)	\$0.25

2. Business Services Division—Commercial

Item	Fee
Corporations—	
Complete Corporation Information Computer Data Transfer	
Weekly, Per Initial Load	\$2,500.00
50 Files at \$200 Per Week	\$10,000.00
Total	\$12,500.00
Monthly, Per Initial Load	\$2,500.00
11 Monthly Files at \$400	\$4,400.00
Total	\$6,900.00
Monthly Trade Names Only, 12 Monthly Files	
Total	\$1,725.00
Customized Computer List (Per Page)	\$25 for 1st 40 Records Plus \$0.01 Per Each Additional Record
Miscellaneous Corporations Fees—	..
Agent for Service of Process	\$15.00
Certificate for Service of Process	\$20.00
Political Subdivision	\$10.00
Power of Attorney	\$25.00
Uniform Commercial Code –	..
Direct Access Fee, Annual Subscription, Unlimited Usage	\$400.00
Monthly Updates Information Computer Data Transfer, Annual Fee, Monthly Updates Subscription	\$6,900.00

3. Legal Division—Commissions

Item	Fee
Adoptions (Apostilles or Authentication Certificates) (Cost Per Certificate)	\$10.00
Apostille Certificate (Cost Per Certificate)	\$20.00
Certificate of Authentication (Cost Per Certificate)	\$20.00
Certificate of a Pardon (Cost Per Certificate)	\$20.00
Certified Document (Executive Orders or Proclamations) (Per Document)	\$20.00
Replacement Commission Certificate	\$20.00
Replacement Identification Card	\$5.00

4. Election Services—Publications

Item	Fee
Bond Registration Certificate (Municipal Bonds) (Optional)	\$10.00
Certified Copy (In Addition to Per Page Fee)	\$20.00
Certified Copy of “Living Will” Declaration Registration	\$20.00
“Living Will” Replacement of Identification Card	\$5.00
Public Officials Signature Registration Certificate	\$10.00
Publications	..
Ballot Box	\$5.00
Buckram Bound Acts of Legislature	
2010/I, II and III (2010 Regular Session)	\$172.00
2011/I and II (2011 Regular and 1 st Extraordinary Sessions)	\$120.00
2012/I, II and III (2012 Regular Session)	\$174.00
2013/I and II (2013 Regular Session)	\$120.00
2014/I and II (2014 Regular Session)	\$170.00
2015/I and II (2015 Regular Session)	\$205.00
2016/I and II (2016 Regular Session)	\$340.00

Item	Fee
Future Issues (Printed Annually) *	Varies
Code of Governmental Ethics	\$5.00
Corporation Law	\$25.00
Election Code	\$20.00
Lawrason Act	\$5.00
Legislative Calendar of the Legislature	\$25.00
Official Journal of the Proceedings of the House of Representatives	\$25.00
Official Journal of the Proceedings of the Senate	\$25.00
Report of Secretary of State CY 2009 and CY 2010	\$63.00
Report of Secretary of State CY 2011 and CY 2012	\$60.00
Report of Secretary of State CY 2013 and CY 2014	\$70.00
Report of Secretary of State CY 2015 and CY 2016	\$40.00
Report of Secretary of State (Future Issues) (Printed Bi-Annually) *	Varies
Roster of Officials 2012	\$25.00
Roster of Officials 2016	\$30.00
Roster of Officials (Future Issues) (Printed Bi-Annually) *	Varies

*The department shall publish the cost in *The Advocate* annually for these publications and will post the costs on the department’s website after the cost for each publication is determined.

*Pursuant to R.S. 43:22, the formula for the cost for publishing the Buckram Bound Acts of Legislature is as follows: Printing Estimate + 10 Percent of the Printing Cost + Postage/Quantity of Books Ordered.

**The cost for these publications may vary and is based upon the following: Printing Estimate + Department Staff Costs + Postage/Quantity of Books Ordered

5. State Archives Division—Archives Reproduction and Research Fees¹

Item	Fee
Digital Imaging—	..
600 Pixels Per Inch .TIFF Digital Image (Not for Commercial Use) (For Existing Original Photograph Collections Only) (See Reproduction Rights Fee) ³	\$10.00
Reproduction Rights Fee (Commercial Use Only) (Per Image) ⁴	\$100.00
Legislative Committee Audio Tapes Reproduction—	..
For Public (Archives Provides Tape) (Cost Per Tape or Digital Image)	\$20.00
For State Agency (Archives Provides Tape) (Cost Per Tape or Digital Image)	\$10.00
Photocopy Reproduction—	..
Confederate Pension Records Applications (Per Individual) (Cost Per One Application)	\$20.00
Military Service Records (Confederate Soldiers Military Records From Louisiana and World War I Discharge Records) (Cost Per Individual)	\$15.00
Other Historical Documents (Per Act 602 of the 2006 Regular Legislative Session) (Louisiana Governmental Agencies Only) (Cost Per Set)	\$10.00
Proces Verbal	..
Certification or Recordation	\$20.00
Proces Verbal (Cost Per Page)	\$2.00
Self-Service Copy Charges—	..
Book Scanner Prints (Cost Per Page)	\$0.25
Computer Printouts (Cost Per Page)	\$0.25
Microfilm Prints (Cost Per Page)	\$0.50
Photocopies (Cost Per Page)	\$0.25
Staff Reproduction of Archival Material –	..
Document Certification (Cost Per Record)	\$20.00
Public Vital Records (Certified) (Cost Per Record)	\$10.00
Public Vital Records, Photocopy (Uncertified) (Cost Per Record)	\$5.00

¹ Fees are for research and must be collected for both successful and unsuccessful searches. No research will be conducted until payment is received. As such, email requests will only be taken with approved bankcard prepayment.

6. State Archives Division—Multi-Media Library²

for Permission to Publicly Display Images for Commercial Use (Form LF12).

a. The following forms will be used when requesting reproduction of archival images and requesting permission to publicly display images for commercial use:

i. Policy on the Reproduction of Archival Images (Form LH10); and/or

ii. Request for Permission to Publicly Display Images for Commercial Use (Form LFP12).

7. State Archives Division—Micrographics and Storage (Interagency Services Only)

Item	Fee
Audio and Video Fees—	..
Staff Research/Production Time Rush Fee	\$50.00
Materials Charge (Cost Per Tape)	\$10.00
Audio Duplication Fee for Screener—	..
Local (Per Hour of Footage)	\$100.00
National (Per Hour of Footage)	\$100.00
Other Commercial (Per Hour of Footage)	\$100.00
Worldwide (Per Hour of Footage)	\$100.00
Film and Video Duplication Fee for Screener—	..
Local (Per Hour of Footage)	\$300.00
National (Per Hour of Footage)	\$300.00
Other Commercial/Telecourse (Per Hour of Footage)	\$300.00
Worldwide (Per Hour of Footage)	\$300.00
Multimedia Archives License Fee Schedule—	..
Cable/Satellite Television Transmission Only	..
Local	\$15.00
Nationwide	\$25.00
Captured Audience (i.e. In-Flight, Cruise Ship)	\$25.00
In Addition to Any of the Other Media	\$5.00
Corporate Presentations, Live Events, Concerts and Museum Exhibits	..
Local (One-Location or One-State)	\$15.00
Nationwide	\$20.00
Worldwide	\$25.00
Educational, Non-Commercial Distribution Only (Non-Broadcast)	..
Local	\$10.00
Nationwide	\$15.00
In Addition to Any of the Other Media	\$5.00
Film Festivals	..
Nationwide	\$20.00
Worldwide	\$25.00
In Addition to Any of the Other Media	\$5.00
Home Video (CD-ROM, DVD) (Distribution Only)	\$25.00
In Addition to Any of the Other Media	\$10.00
Internet (Files must be protected from download)	\$25.00
In Addition to Any of the Other Media	\$5.00
Radio Transmission	..
Nationwide	\$10.00
Worldwide	\$15.00
In Addition to Any of the Other Media	\$5.00
Television Broadcast and Cable/Satellite Transmission	..
Local	\$15.00
Nationwide (U.S. and Canada)	\$30.00
Worldwide	\$45.00
Television Broadcast on Non-Commercial (PBS) Stations Only	..
Local	\$15.00
Nationwide	\$20.00
Television Commercials	..
Local (One Market)	\$30.00
Nationwide	\$45.00
Worldwide	\$60.00
Theatrical Distribution	\$40.00
Plus Nationwide Television Broadcast and Cable/Satellite Television	\$45.00
Plus Worldwide Television Broadcast and Cable/Satellite Television	\$50.00
Video-On-Demand/Pay-Per-View (Includes Downloadable Video and Wireless Devices)	\$20.00
In Addition to Any of the Other Media	\$5.00
All Media, Not Known, Worldwide	\$90.00

Item	Fee
2nd Diazo Duplicate Reel (16 mm)	\$10.00
2nd Diazo Duplicate Reel (35 mm)	\$15.00
2nd Silver Original Reel (Dual Reels)	\$8.00
Add-on Image to Microfiche Jacket	\$0.20
From Paper to Microfilm	\$0.07
Load Reel onto Cartridge	\$10.00
Microfiche Jacket	\$0.50
Microfilm Duplication of Existing Roll (Cost Per Roll)	..
16 mm Reel (Includes Shipping and Handling)	\$20.00
16 mm Reel (Duplicate Film for State Agencies)	\$10.00
35 mm Reel (Includes Shipping and Handling)	\$25.00

The microfilm image (16 mm or 35 mm) price includes the following: pickup, make ready, filming, processing, storage of original reel at the Louisiana State Archives Facility, duplicate reel sent to agency, disposal of original documents, and/or return of documents per agency instruction or approval. For more details or job price quotes, please contact the microfilm program at (225) 922-1000.

8. State Archives Division—Storage Facility

Item	Fee
Package of Cubic Foot Boxes (Storage Boxes for State Records Center Storage) (25 Boxes in Package)	Actual Cost

Due to the fluctuation in the department's procurement cost of the storage boxes, the actual cost for boxes will be assessed and will be posted on the department's website.

B. Method of Payment

1. The acceptable methods of payment for fees specified in Subsection A above are credit card (see bankcard convenience fee below), check, money order, or cash. Checks and money orders should be made to the Department of State.

2. There is a service charge for using a bankcard for transactions conducted via internet, postal mail, email, FAX, and telephone requests. If using a credit or debit card for an in-person transaction, there is no service charge. Since the bankcard convenience fee has to be approved by the State Treasurer, the fee will be posted on the department's website. This amount may vary.

3. Payments from state entities are to be processed through authorized state accounting systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1447, R.S. 9:2782, R.S. 18:1293, R.S. 24:172, R.S. 24:173.1, R.S. 25:1282, R.S. 25:1284, R.S. 36:742, R.S. 40:1151.2, R.S. 43:19, R.S. 44:1 et seq., R.S. 44:402, R.S. 44:405, R.S. 44:406, R.S. 44:408, R.S. 44:415, R.S. 44:420, R.S. 44:421, R.S. 49:222(A), R.S. 49:227, R.S. 49:228, Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, and Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (22 CFR 96).

² A \$300 minimum license fee applies to all the license fees listed herein and is due and payable at the time the footage is ordered from Louisiana State Archives and is non-refundable in the event of non-usage of the footage.

³ Refer to the Louisiana State Archives *Policy on the Reproduction of Archival Images* (Form LH10).

⁴ Refer to the Louisiana State Archives *Policy on the Reproduction of Archival Images* (Form LH10) and Request

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 43:

§403. Department of State Public Records Request

A. The Department of State processes public records requests during regular business hours (Monday through Friday from 8 a.m. to 4:30 p.m.) each business day. The department does not process requests on Saturdays, Sundays, or state holidays.

B. All requests shall be made in writing and may be made by completing a form that will be provided on the department's website. If the copies are to be certified, the person making the request should notify the department when making his request. Certified copies are not available when transmitting records via email, except for commercial records.

C. When submitting a request in writing or in-person, the requestor should use the following address: Department of State, Attention: Legal Division (Public Records Request), 8585 Archives Blvd., P.O. Box 94125, Baton Rouge, LA 70804-9125. Requests may also be made online by answering all of the questions provided on the form and submitting the request to the following email address: PublicRecordsRequest@sos.la.gov.

D. Every public records request shall provide a detailed description of the documents being requested. In addition, the requestor shall inform the department as to the format (i.e., hard copy, electronic copy, USB drive, CD, tape, etc.) to use when submitting the documents to the requestor. In addition, he must stipulate the delivery method (U.S. postal service, express mail, electronic delivery, in-person, or fax) that will be used to submit documents to requestor.

E. After the department processes the request, an estimate of the costs will be submitted to the requestor utilizing the costs specified in §401 above plus the cost of delivery. All payments can be made utilizing a credit card (see §401.B.2 above for convenience fee), check, or money order. Once the department receives the funds from the requestor, the department will release the documents to the requestor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 44:1 et seq., and R.S. 49:222(A).

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 43:

§405. Louisiana State Archives Facilities

A. Non-Profit Groups and Civic Organizations. There is no rental fee charged for use of the state archives facility during regular business hours (Monday through Friday 8 a.m. to 4 p.m.). These meetings must be free and open to the public. If a non-profit group or civic organization wants to meet after hours, there will be a \$50 security fee charged. The state archives facility closes at 9 p.m. for all after hour events.

B. For-Profit and Commercial Groups. These groups will be charged based on the schedule listed below:

1. \$75 for half-day rental;
2. \$150 for full-day rental during regular business days (Monday to Friday from 8 a.m. to 4 p.m.); and
3. \$300 for after-hours events.

B. The state archives facilities will close at 9 p.m. for all after-hours events.

C. Method of Payment. When paying for either the rental cost or the security fee, one-half of the total fee is to be

made payable to the Department of State and the other one-half is to be made payable to the Friends of the Louisiana State Archives.

D. In order to rent the state archives facility, all organizations will be required to complete a Louisiana state archives event request form, which can be found on the department's website. On the form, the organization will be required to acknowledge agreement with the indemnification provision specified on the form. The completed form should be mailed to the Department of State, Archives Division, P.O. Box 94125, Baton Rouge, LA 70804-9125. The form may also be emailed to the Archives Division. If there are any questions, call the state archives facility at (225) 922-1000.

E. The state archives facility consists of the following:

1. auditorium (95 permanent tiered seats with a capacity of 120 when using folding chairs);
2. gallery (40-seat capacity with no projector option); and
3. lobby.

F. In addition, the organization shall indicate if they need any of the following:

1. microphone;
2. podium;
3. projector;
4. 6-foot tables; and/or
5. additional folding chairs.

G. Every effort will be made to accommodate requests; however, events may have to be postponed or moved to alternate locations due to unforeseen circumstances, such as early voting. The department will notify the organization as soon as possible should any change become necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 44:408, and R.S. 49:222(A).

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 43:

Family Impact Statement

The proposed Rule regarding non-statutory fees for the Department of State should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

Poverty Impact Statement

The proposed Rule regarding non-statutory fees for the Department of State should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;

4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

Provider Impact Statement

The proposed Rule does not have any known or unforeseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Steve Hawkland, Deputy General Counsel, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. He will be responsible for responding to inquiries regarding the proposed Rule. The deadline for the Department of State to receive written comments is 4:30 p.m. on Thursday, October 26, 2017 after the public hearing.

Public Hearing

A public hearing on the proposed Rule is scheduled for Wednesday, October 25, 2017 at 2 p.m. in the auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments, either orally or in writing.

Tom Schedler
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Non-Statutory Departmental Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in any costs or savings to the Department of State; however, other state agencies as well as local governmental units may be impacted to the extent they are subject to the fee increases. Potential increases are not anticipated to be significant.

In accordance with the Administrative Procedures Act, the Department of State adopted a fee schedule (LAC 4:I.303) in October, 1986 and amended said fees in March, 2003 (LR 29:372). During the 2008 Regular Legislative Session, Act 913 was enacted moving authority for all commercial fees to R.S. 49:222(B). In addition, the Department of State has annually published a list of fees charged by the department in the official journal of the state in accordance with R.S. 49:222(A) and has

posted said fees on the department’s website. However, the department has not amended the fee schedule promulgated in the Louisiana Administrative Code (LAC) since 2003. A majority of the fees that were promulgated have since been adopted as statutory fees. In addition, this rule will remove all statutory fees from the non-statutory fees schedule and the department will update all non-statutory fees assessed by the department in accordance with R.S. 49:222(A).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Overall, the estimated revenue collections for the Department of State are expected to increase minimally. The fees being promulgated codify current fee assessments by the department; therefore, a major increase in revenue collections is not expected.

After a thorough review, the department noted that there were five fees associated with certifying documents that need revisions to ensure that all fees are charged uniformly for certifying documents. The fees will increase from \$10 to \$20 which will generate approximately \$2,000 more in revenue based on the average request of 200 documents per year.

The department now proposes to utilize actual costs as the cost for state and local governments to purchase boxes for the storage center through the Department of State. The fee was previously \$15 and increased to \$25 in calendar year 2017. The current price the Department of State pays for the boxes is \$26.75. It is unknown how many bundles of boxes will be purchased from the department, since state and local governmental units are not required to purchase boxes through the department. Therefore, exact revenue collections cannot be determined.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated costs to persons and non-governmental groups will increase minimally for fee schedules converting to a uniform non-statutory fee for certifying documents. There may be increased costs to the extent individuals and/or other entities are subject to the fee increases.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no estimated effect on competition and employment.

Joe R. Salter
Undersecretary
1709#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of Operations**

Toll Exemptions—LA 1 (LAC 70:XI.101)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 47:820.5.4 through R.S. 47:820.5.7, that the Department of Transportation and Development, Office of Operations proposes to amend Chapter 1 to allow the Louisiana Transportation Authority (LTA) to adjust the amount charged for a toll tag to students in school buses, the school bus, and the driver to reflect the cost incurred by LTA to purchase a toll tag. This amendment will allow those fees charged to students in school buses for a toll tag to be consistent with all other categories of exempt entities, as enumerated in §101.

Title 70
TRANSPORTATION

Part XI. Louisiana Transportation Authority

Chapter 1. Toll Exemptions—LA 1

§101. Exempt Entities

A. - A.5.e. ...

6. Students in School Buses

a. - c. ...

d. A reasonable fee shall be charged to offset the cost of the toll tags to reflect the actual costs incurred by the Department of Transportation and Development to purchase the toll tags.

6.e. - 9.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.5.4 and 820.5.5.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Transportation Authority, LR 38:2380 (September 2012), amended by the Department of Transportation and Development, Office of Operations, LR 41:560 (March 2015), amended LR 43:

Family Impact Statement

Implementation of this proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically:

1. the implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family;

2. the implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children;

3. the implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family;

4. the implementation of this proposed Rule will have no known or foreseeable effect on the family earnings and family budget;

5. the implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children;

6. the implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The implementation of this proposed Rule should not have any known or foreseeable impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically:

1. the implementation of this proposed Rule will have no known or foreseeable effect on household income, assets, and financial security;

2. the implementation of this proposed Rule will have no known or foreseeable effect on early childhood development and preschool through postsecondary education development;

3. the implementation of this proposed Rule will have no known or foreseeable effect on employment and workforce development;

4. the implementation of this proposed Rule will have no known or foreseeable effect on taxes and tax credits;

5. the implementation of this proposed Rule will have no known or foreseeable effect on child and dependent care,

housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The implementation of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental, and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

Provider Impact Statement

The implementation of this proposed Rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. the implementation of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service;

2. the implementation of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service;

3. the implementation of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this notice of intent to Greg Hardy, Attorney, Legal Section, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245.

Shawn Wilson, Ph.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Toll Exemptions—LA 1

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units associated with the proposed rule change. School districts in certain locations will benefit from decreased toll tag purchase costs for use on school buses. The proposed rule change will decrease the purchase price of a toll-exempt tag for students riding in school buses to match the equivalent purchase price of a toll tag in uniformity with the fees charged to other exempt entities listed in the *Louisiana Administrative Code*, Title 70, Part XI, Chapter 1. The reduction in cost is a result of technological advances that have eliminated the use of hardware needed to track toll expenditures. The proposed rule change replaces the specific dollar amount with language that will give DOTD flexibility to modify toll tag charges, as needed, to reflect the actual costs incurred by DOTD to purchase toll tags as prices change in the future.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

DOTD will realize a revenue reduction of approximately \$10.91 per toll-exempt tag issued with the promulgation of the proposed rule change. The toll tag acquisition cost has decreased to \$1.59 per tag from \$12.50 currently. The revenues collected for toll tag acquisition are equal to the department's cost of purchasing each tag.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in a current savings of \$10.91 per toll tag issued for students riding in school buses in uniformity with the other exempt toll patrons listed in the Louisiana Administrative Code, Title 70, Part XI, Chapter 1. The savings compared to current cost may fluctuate in the future depending upon the actual purchase price of a toll tag for the department.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Shawn Wilson, Ph.D.
Secretary
1709#003

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Black Bass—Daily Take, Size Limits and
Possession Limits (LAC 76:VII.149)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to modify the recreational harvest regulations for black bass (*Micropterus spp.*) on Caney Creek Reservoir in Jackson Parish, Louisiana (LAC 76:VII.149). The proposed change removes the 15- to 19-inch protected slot limit and replaces it with a statewide daily take (creel limit) of 10 fish for black bass with no minimum length limit.

**Title 76
WILDLIFE AND FISHERIES**

Part VII. Fish and Other Aquatic Life

**Chapter 1. Freshwater Sports and Commercial
Fishing**

**§149. Black Bass Regulations—Daily Take and Size
Limits**

A. The Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass. The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

- 1. - 1.c.ii. Repealed.
- 2. - 7.a.v. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325(C), R.S. 56:326.3, and R.S. 56:673.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR:14:364 (June 1988), amended LR 17:277 (March 1991),

repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 28:104 (January 2002), LR 29:373 (March 2003), LR 30:2339 (October 2004), repromulgated LR 30: (October 2004), repromulgated LR 30:2495 (November 2004), amended LR 37:2440 (August 2011), LR 39:1833 (July 2013), LR 40:803 (April 2014), LR 40:1558 (August 2014), LR 43:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Written comments may be addressed to Jeff Sibley, District 1 Biologist Manager, Department of Wildlife and Fisheries, 9961 Hwy. 80, Minden, LA 71055 or jsibley@wlf.la.gov, no later than 4:30 p.m., November 20, 2017.

Chad J. Courville
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Black Bass—Daily Take,
Size Limits and Possession Limits**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is expected to have no effect on costs or savings to state or local governmental units.

The proposed rule change removes the existing 15-inch to 19-inch slot limit restriction on black bass harvests at Caney Creek Reservoir (also known as Caney Lake) in Jackson Parish. The slot limit means that it is illegal to keep or possess a black bass with a total maximum length between 15 and 19 inches in the lakes to which the limit applies. With the rescission of the slot limit regulation, the general statewide rule of no size limit for black bass would apply to this water body.

The proposed rule change revises the daily take limit and possession limits for black bass on Caney Creek Reservoir. It replaces the current daily take limit of eight fish, no more than two of which could exceed 19 inches, with a take limit of 10 fish per day, equivalent to the general statewide daily take limit. It sets the off-water possession limit at 20 fish (twice the revised daily limit) in place of the current possession limit of 16 fish.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The impact to revenue collections of LDWF will be insignificant due to the proposed rule change.

Violations of the proposed rule, like violations of the current regulation that it would replace, are Class two violations with penalties including fines of \$100 to \$350 or possible imprisonment. Most of the funds collected through fines accrue to local authorities. For every guilty verdict, a total of \$7 is deposited into two funds maintained by LDWF. The LDWF Law Enforcement Division issued an average of 2.3 citations per year between 2014 and 2016 for the harvest of illegal sized bass in all of Region 2, the 12-parish area including Jackson Parish. The number of violations under the proposed rule is unknown, but is expected to be low

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is expected to benefit anglers who fish in Caney Creek Reservoir because it simplifies the recreational harvest regulations and should result in an increase in anglers' harvests of black bass.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
1709#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

Sulfur Dioxide (2010)
National Ambient Air Quality Standards
State Implementation Plan (SIP) Revision

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Planning Division, will submit to the Environmental Protection Agency (EPA) a revision to the Louisiana state implementation plan (SIP) for sulfur dioxide. (1709Pot1)

On June 2, 2010, EPA strengthened the primary national ambient air quality standards (NAAQS) for SO₂. EPA revised the primary SO₂ NAAQS by establishing a new 1-hour standard at a level of 75 parts per billion (ppb). The EPA has designated St. Bernard Parish as nonattainment for the new NAAQS. The SIP revision will implement standards required by the Clean Air Act for the nonattainment area.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., Wednesday, November 1, 2017, to Vivian H. Aucoin, Office of Environmental Assessment, P.O. Box 4314, Baton Rouge, LA 70821-4314, fax (225) 219-3482, or e-mail at vivian.aucoin@la.gov. A public hearing will be held upon request. The deadline for requesting a public hearing is Friday, October 13, 2017.

A copy of the proposal may be viewed on the Louisiana Department of Environmental Quality website or at LDEQ headquarters at 602 North Fifth Street, Baton Rouge, LA 70802.

Herman Robinson
General Counsel

1709#016

POTPOURRI

**Department of Health
Bureau of Health Services Financing**

Eliminating Pain as the Fifth Vital Sign and
as a Determinant of Quality Patient Care

In compliance with the requirements of House Concurrent Resolution (HCR) 75 of the 2017 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing, alerts all managed care organizations and providers that the Louisiana Legislature has urged and requested the department to take all necessary steps to bring attention to the need to eliminate pain as the fifth vital sign and a determinate of quality patient care, and to increase prescriber education and awareness on assessing, identifying, and treating the symptom of pain with the goal of reducing the use of opioids to treat patient-reported pain when alternative forms of pain management would be sufficient.

Rebekah E. Gee MD, MPH
Secretary

1709#053

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